

Extra Ordinary Part - VI / 2015

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 19th January, 2015.

No. RPB/7-2014/Ord-07-2014/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section I, Dated the 26th December, 2014 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 2014, Pausa 5, 1936 (Saka)

THE COAL MINES (SPECIAL PROVISIONS)

SECOND ORDINANCE, 2014.

No. 7 OF 2014

Promulgated by the President in the sixty-fifth year of the Republic of India.

An Ordinance to provide for allocation of coal mines and vesting of the right, title and interest in and over the land and mine infrastructure together with mining leases to successful bidders and allottees with a view to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilisation of coal resources consistent with the requirement of the country in national interest and for matters connected therewith or incidental thereto.

WHEREAS the Supreme Court *vide* judgment dated 25th August, 2014 read with its order dated 24th September, 2014 has cancelled the allocation of coal blocks and issued directions with regard to such coal blocks and the Central Government in pursuance of the said directions has to take immediate action to implement the said order;

AND WHEREAS it is expedient in public interest for the Central Government to take immediate action to allocate coal mines to successful bidders and allottees keeping in view the energy security of the country and to minimise any impact on core sectors such as steel, cement and power utilities, which are vital for the development of the nation;

AND WHEREAS in pursuance of the judgment and order of the Supreme Court, the Coal Mines (Special Provisions) Ordinance, 2014 (5 of 2014) was promulgated by the President on the 21st day of October, 2014;

AND WHEREAS the Coal Mines (Special Provisions) Bill, 2014 to replace the Coal Mines (Special Provisions) Ordinance, 2014 was introduced in House of the People on 10th December, 2014 with certain modifications so as to provide for dispute settlement, bar of jurisdiction of civil courts and protection of action taken in good faith by the authorities in performance of their duties under the said Ordinance;

AND WHEREAS the Coal Mines (Special Provisions) Bill, 2014, to replace the said Ordinance has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS in pursuance of the Coal Mines (Special Provisions) Ordinance, 2014 action has been initiated by the Central Government including the framing of rules for allocation of coal mines and therefore, it is considered necessary to give continuity to the provisions of the said Ordinance and save the actions taken thereunder;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

CHAPTER I

PRELIMINARY

Short title, extent
and
commencement.

1. (1) This Ordinance may be called the Coal Mines (Special Provisions) Second Ordinance, 2014.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the

21st day of October, 2014.

2. It is hereby declared that it is expedient in the public interest that Union should take action for the development of Schedule I coal mines and extraction of coal on continuous basis for optimum utilisation.

Declaration as to expediency of Union action.

3. (1) In this Ordinance, unless the context otherwise requires,—

Definitions.

(a) "additional levy" means, the additional levy as determined by the Supreme Court in Writ Petition (Criminal) No. 120 of 2012 as two hundred and ninety-five rupees per metric tonne of coal extracted;

(b) "allotment order" means the allotment order issued under section 5;

(c) "appointed date" in relation to—

(i) Schedule I coal mines excluding Schedule II coal mines, shall be the 24th day of September, 2014 being the date on which the allocation of coal blocks to prior allottees stood cancelled; and

(ii) Schedule II coal mines shall be the 1st day of April, 2015 being the date on which the allocation of coal blocks to prior allottees shall stand cancelled,

in pursuance of the order of the Supreme Court dated the 24th September, 2014 passed in Writ Petition (Criminal) No. 120 of 2012;

(d) "bank" shall have the same meaning as assigned to it in clause (c) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

(e) "coal mining operations" means any operation undertaken for the purpose of winning coal;

(f) "company" shall have the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013;

18 of 2013.

(g) "corporation" shall have the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013;

18 of 2013.

(h) "financial institution" shall have the same meaning as assigned to it in clause (m) of section 2 of

the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(i) "Government company" shall have the same meaning as assigned to it in clause (45) of section 2 of the Companies Act, 2013; 54 of 2002.

(j) "mine infrastructure" includes mining infrastructure such as tangible assets used for coal mining operations, being civil works, workshops, immovable coal winning equipment, foundations, embankments, pavements, electrical systems, communication systems, relief centres, site administrative offices, fixed installations, coal handling arrangements, crushing and conveying systems, railway sidings, pits, shafts, inclines, underground transport systems, hauling systems (except movable equipment unless the same is embedded in land for permanent beneficial enjoyment thereof), land demarcated for afforestation and land for rehabilitation and re-settlement of persons affected by coal mining operations under the relevant law; 18 of 2013.

(k) "nominated authority" means the authority nominated by the Central Government under section 6;

(l) "notification" means a notification published in the Official Gazette;

(m) "prescribed" means prescribed by rules made under this Ordinance;

(n) "prior allottee" means prior allottee of Schedule I coal mines as listed therein who had been allotted coal mines between 1993 and 31st day of March, 2011, whose allotments have been cancelled pursuant to the judgment of the Supreme Court dated the 25th August, 2014 and its order dated 24th September, 2014 including those allotments which may have been de-allocated prior to and during the pendency of the Writ Petition (Criminal) No.120 of 2012.

Explanation.—In case a mining lease has been executed in favour of a third party, subsequent to such allocation of Schedule I coal mines, then, the third party shall be deemed to be the prior allottee;

(o) "Schedule" means a Schedule appended to this Ordinance;

(p) "Schedule I coal mines" means,—

(i) all the coal mines and coal blocks the allocation of

which was cancelled by the judgment dated 25th August, 2014 and its order dated 24th September, 2014 passed in Writ Petition (Criminal) No.120 of 2012, including those allotments which may have been de-allocated prior to and during the pendency of the said Writ Petition;

(ii) all the coal bearing land acquired by the prior allottee and lands, in or adjacent to the coal mines-used for coal mining operations acquired by the prior allottee;

(iii) any existing mine infrastructure as defined in clause (j);

(q) "Schedule II coal mines" means the forty-two Schedule I coal mines listed in Schedule II which are the coal mines in relation to which the order of the Supreme Court dated 24th day of September, 2014 was made;

(r) "Schedule III coal mines" means the thirty-two Schedule I coal mines listed in Schedule III or any other Schedule I coal mine as may be notified under sub-section (2) of section 7;

(s) "secured creditor" shall have the same meaning as assigned to it in clause (zd) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

(t) "secured debt" shall have the same meaning as assigned to it in clause (ze) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(u) "security interest" shall have the same meaning as assigned to it in clause (zf) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(v) "specified end-use" means any of the following end-uses and the expression "specified end user" shall with its grammatical variations be construed accordingly,—

(i) production of iron and steel;

(ii) generation of power, including the generation of power for captive use;

(iii) washing of coal obtained from a mine;

(iv) cement;

(v) such other end-use as the Central Government may, by notification, specify;

(w) "vesting order" means the vesting order issued under section 8.

(2) Words and expressions used herein and not defined, but defined in the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Mines and Minerals (Development and Regulation) Act, 1957 and the Coal Mines (Nationalisation) Act, 1973 including any rules or regulations made thereunder, shall have the meanings, respectively assigned to them in those Acts.

20 of 1957.

67 of 1957.

26 of 1973.

CHAPTER II

AUCTION AND ALLOTMENT

Eligibility to
participate in
auction and
payment of fees.

4. (1) Subject to the provisions of section 5, Schedule I coal mines shall be allocated by way of public auction in accordance with such rules, and on the payment of such fees which shall not exceed five crore rupees, as may be prescribed.

(2) Subject to the provisions in sub-section (3) of this section and section 5, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed—

(a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or

(b) a company or a joint venture company formed by two or more companies,

that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be, and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal to such company as selected through auction by competitive bidding under this section.

(3) Subject to the provisions of section 5, the following persons who fulfil such norms as may be prescribed, shall be

eligible to bid in an auction of Schedule II coal mines and Schedule III coal mines and to engage in coal mining operations in the event they are successful bidders, namely:—

(a) a company engaged in specified end-use including a company having a coal linkage which has made such investment as may be prescribed;

Explanation:— A “company with a coal linkage” includes any such company whose application is pending with the Central Government on the date of commencement of this Ordinance;

(b) a joint venture company formed by two or more companies having a common specified end-use and are independently eligible to bid in accordance with this Ordinance;

(c) a Government company or corporation or a joint venture company formed by such company or corporation or with any other company having common specified end-use:

Provided that nothing contained in sub-section (2) shall apply to this sub-section.

(4) A prior allottee shall be eligible to participate in the auction process subject to payment of the additional levy within such period as may be prescribed and if the prior allottee has not paid such levy, then, the prior allottee, its promoter or any of its company of such prior allottee shall not be eligible to bid either by itself or by way of a joint venture.

(5) Any prior allottee who is convicted for an offence relating to coal block allocation and sentenced with imprisonment for more than three years, shall not be eligible to participate in the auction.

5. (1) Notwithstanding the provisions contained in sub-sections (1) and (3) of section 4, the Central Government may allot a Schedule I coal mine to a Government company or corporation or to a joint venture between two or more Government companies or corporations or to a company which has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects) from specified Schedule I coal mines by making an allotment order in accordance with such rules as may be prescribed and the State Government shall grant a reconnaissance permit, prospecting licence or mining lease in respect of any area

Allotment of
mines to
Government
companies or
corporations.

containing coal to such company or corporation:

Provided that the Government company or corporation may carry on Coal Mining in any form either for its own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be:

Provided, ~~further~~ that no company other than a Government company or corporation shall hold more than twenty-six per cent. of the paid up share capital in the Government company or corporation or in the joint venture between a Government company or corporation, either directly or through any of its subsidiary company or associate company:

Provided also that a joint venture of any two or more Government companies or corporations shall be prohibited from alienating or transferring any interest, except the taking of loans or advances from a bank or financial institution, in the joint venture of whatsoever nature including ownership in favour of a third party.

(2) No allotment under sub-section (1) shall be made to a prior allottee, if that allottee has not made the payment of the additional levy within the specified period.

6. (1) The Central Government shall appoint an officer not below the rank of a Joint Secretary to the Government of India as the nominated authority who shall act for and on behalf of the Central Government for the purposes of this Ordinance and shall exercise such powers as may be prescribed.

Central Government to act through nominated authority.

(2) The nominated authority may engage any expert having such qualifications and experience and on such terms and conditions as may be prescribed to make recommendations to the authority for the conduct of auction and in drawing up of the vesting order or allotment order in relation to Schedule I coal mines.

(3) The Central Government shall act through the nominated authority for the following purposes, namely:—

(a) conduct the auction process and allotment with the assistance of experts;

(b) execution of the vesting order for transfer and vesting of Schedule I coal mines pursuant to the auction;

(c) executing the allotment order for any Government company or corporation in pursuance of section 5;

(d) recording and mutating incorporeal rights of whatsoever nature including, consents, permissions, permits, approvals, grants, registrations;

(e) collection of auction proceeds, adjustment of preferential payments and transfer of amount to the respective State Governments where Schedule I coal mine is located in accordance with the provisions of this Ordinance.

(4) The nominated authority shall complete the auction or execute the allotment orders of Schedule I coal mines within such time and in accordance with such rules as may be prescribed.

(5) The Central Government may appoint such other officers and staff as it may think fit to assist the nominated authority.

(6) The salaries and allowances and other terms and conditions of service of the nominated authority and such other officers and staff appointed under this section shall be such as may be prescribed.

(7) The nominated authority shall be bound by the written direction given by the Central Government on the question of policy.

Power to classify certain Schedule I coal mines by Central Government.

7. (1) The Central Government may, before notifying the particulars of auction, classify mines identified from Schedule I coal mines as earmarked for the same class of specified end-uses.

(2) The Central Government may in public interest, by notification, modify Schedule III coal mines by adding any other Schedule I coal mine for the purposes of specified end-use.

Nominated authority to issue vesting order or allotment order.

8. (1) The nominated authority shall notify the prior allottees of Schedule I coal mines to enable them to furnish information required for notifying the particulars of Schedule I coal mines to be auctioned in accordance with such rules as may be prescribed.

(2) The information required to be furnished under subsection (1) shall be furnished within a period of fifteen days from the date of such notice.

(3) A successful bidder in an auction conducted on a competitive basis in accordance with such rules as may be prescribed, shall be entitled to the vesting of Schedule I coal mine for which it bid, pursuant to a vesting order drawn up in

accordance with such rules.

(4) The vesting order shall transfer and vest upon the successful bidder, the following, namely:—

(a) all the rights, title and interest of the prior allottee, in Schedule I coal mine concerned with the relevant auction;

(b) entitlement to a mining lease to be granted by the State Government;

(c) any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in Schedule I coal mines if already issued to the prior allottee;

(d) rights appurtenant to the approved mining plan of the prior allottee;

(e) any right, entitlement or interest not specifically covered under clauses (a) to (d).

(5) The nominated authority shall, in consultation with the Central Government, determine the floor price or reserve price in accordance with such rules as may be prescribed.

(6) The successful bidder shall, prior to the issuance and execution of a vesting order, furnish a performance bank guarantee for an amount as notified in relation to Schedule I coal mine auctioned to such bidder within such time, form and manner as may be prescribed.

(7) After the issuance of a vesting order under this section and its filing with the Central Government and with the appropriate authority designated by the respective State Governments, the successful bidder shall be entitled to take possession of the Schedule I coal mine without let or hindrance.

(8) Upon the execution of the vesting order, the successful bidder of the Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.

(9) A Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India, allotted a Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals

(Development and Regulation) Act, 1957. -

(10) In relation to Schedule II coal mines, the successful bidder which was a prior allottee, shall continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (8) is granted, upon the grant of a vesting order and to that extent, the successful bidder shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said sub-section.

(11) In relation to Schedule II coal mines, the Government company or corporation which was a prior allottee can continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (9) is granted, upon execution of the allotment order and to that extent, the allottee shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said sub-section.

(12) The provisions of sub-sections (1) and (2) and sub-sections (4) to (7) (both inclusive) of this section as applicable to a vesting order, shall *mutatis mutandis* be also applicable to an allotment order.

Priority
disbursal
proceeds.
of

9. The proceeds arising out of land and mine infrastructure in relation to a Schedule I coal mine shall be disbursed maintaining, *inter alia*, the priority of payments in accordance with the relevant laws and such rules as may be prescribed—

(a) payment to secured creditors for any portion of the secured debt in relation to a Schedule I coal mine which is unpaid as on the date of the vesting order;

(b) compensation payable to the prior allottee in respect of the Schedule I coal mine.

CHAPTER III

TREATMENT OF RIGHTS AND OBLIGATIONS OF PRIOR ALLOTTEES

Utilisation of
movable property
used in coal mining
operations.

10. (1) A successful bidder or allottee in respect of Schedule I coal mines, may negotiate with prior allottee to own or utilise such movable property used in coal mining operations on such terms and conditions as may be mutually agreed to by them.

(2) Where a successful bidder or allottee is not vested with any movable property of a Schedule I coal mine, then, he is not bound by any liabilities or obligations arising out of

such ownership or contractual rights, obligations or liabilities which shall continue to remain with the prior allottee.

(3) In the event that the successful bidder or allottee is unable to satisfactorily negotiate with the prior allottee or any third party who has a contract with the prior allottee for the movable property, it shall be the obligation of the prior allottee or the third party to remove such movable property within a period not exceeding thirty days from the date of the vesting order, or the allotment order, as the case may be, and the successful bidder or allottee shall not be liable for any damage to such property.

(4) A successful bidder or allottee which has elected not to purchase or transfer or continue to use the movable property referred to in sub-section (1), shall prior to the execution of the vesting order or the allotment order, as the case may be, declare to the nominated authority that he intends to move and store such movable property of the prior allottee or such third party and after the date of the vesting order or the allotment order, as the case may be, the successful bidder or allottee shall be entitled to move and store such movable property, so as not to cause any impediment for coal mining operations.

(5) If a prior allottee or such third party which has contracted with the prior allottee for its movable property, fails to remove the movable property which the successful bidder or allottee has elected not to purchase or use in accordance with sub-section (4), then, after the period of seventy-five days from the vesting order or the allotment order, as the case may be, a successful bidder or allottee shall be entitled to dispose of such movable property which may be physically located within Schedule I coal mine, the successful bidder or the allottee, shall, in such event be entitled to appropriate the sale proceeds of such movable property disposed of to pay for any cost incurred by the successful bidder or allottee, for the removal, storage, sale and disposal of such movable property, as a first charge over the sale proceeds of such movable property:

Provided that the remaining sale proceeds after appropriation of costs, shall be paid by the successful bidder or allottee to the Central Government towards any compensation that may be payable to the owner of such movable property sold, upon establishment of title to such movable property in accordance with such rules as may be prescribed:

Provided further that if a third party contractor to the prior allottee owns such movable property, then, such third party shall be entitled to prove its right to receive compensation from the sale proceeds of the movable property sold as per this sub-section, in accordance with such rules as may be prescribed.

Discharge or
adoption of third
party contracts
with prior allottees.

11. (1) Notwithstanding anything contained in any other law for the time being in force, a successful bidder or allottee, as the case may be, in respect of Schedule I coal mines, may elect, to adopt and continue such contracts which may be existing with any of the prior allottees in relation to coal mining operations and the same shall constitute a novation for the residual term or residual performance of such contract:

Provided that in such an event, the successful bidder or allottee or the prior allottee shall notify the nominated authority to include the vesting of any contracts adopted by the successful bidder.

(2) In the event that a successful bidder or allottee elects not to adopt or continue with existing contracts which had been entered into by the prior allottees with third parties, in that case all such contracts which have not been adopted or continued shall cease to be enforceable against the successful bidder or allottee in relation to the Schedule I coal mine and the remedy of such contracting parties shall be against the prior allottees.

Provisions in
relation to secured
creditors.

12. (1) The secured creditors of the prior allottees which had any security interest in any part of the land or mine infrastructure of a Schedule I coal mine shall be entitled to—

(a) continue with such facility agreements and security interest with the prior allottee if such prior allottee is a successful bidder or allottee; and

(b) in the event that the prior allottee is not a successful bidder or allottee, then the security interest of such secured creditor shall only be satisfied out of the compensation payable to such prior allottee, to the extent determined in accordance with such rules as may be prescribed and the outstanding debt shall be recoverable from the prior allottee.

(2) The Central Government shall, taking into consideration the provisions contained in section 9, prescribe the manner in which the secured creditor shall be paid out of

the compensation in respect of any prior allottee.

13. Any and all alienations of land and mine infrastructure and creation of any encumbrances of whatsoever nature thereon which relate to Schedule I coal mines, made by any prior allottee after the 25th day of August, 2014 shall be void, save and except any registered security interest and charge over the land and mine infrastructure as registered by a bank or a financial institution or any other secured lender.

Void alienations
and permitted
security interests.

14. (1) Notwithstanding anything contained in any other law for the time being in force, no proceedings, orders of attachment, distress, receivership, execution or the like, suits for the recovery of money, enforcement of a security or guarantee (except as otherwise provided for under this Ordinance), prior to the date of commencement of this Ordinance shall lie, or be proceeded further with and no remedies shall be available against the successful bidder, or allottee, as the case may be, or against the land and mine infrastructure in respect of Schedule I coal mines.

Liabilities of
prior allottees.

(2) The proceedings as referred to in sub-section (1), shall continue as a personal remedy against the prior allottee but shall not be maintainable or continued against the land or mine infrastructure of Schedule I coal mines or the successful bidder or allottee, pursuant to this Ordinance.

(3) Every liability of any prior allottee in relation to a Schedule I coal mine in respect of any period prior to the vesting order or allotment order, shall be the liability of such prior allottee and shall be enforceable against it and not against the successful bidder or allottee or the Central Government.

(4) All unsecured loans shall continue to remain the liability of the prior allottee.

(5) The additional levy imposed against the prior allottees of Schedule II coal mines shall continue to remain the liability of such prior allottees and such additional levy shall be collected by the Central Government in such manner as may be prescribed.

(6) For the removal of doubts, it is hereby declared that—

(a) no claim for wages, bonus, royalty, rate, rent,

taxes, provident fund, pension, gratuity or any other dues in relation to a Schedule I coal mine in respect of any period prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;

(b) no award, decree, attachment or order of any court, tribunal or other authority in relation to any Schedule I coal mine passed prior to the date of commencement of this Ordinance, in relation to the land and mine infrastructure of Schedule I coal mines, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;

(c) no liability for the contravention of any provision of law for the time being in force, relating to any act or omission prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the successful bidder or allottee or the Central Government.

Commissioner of
Payments to be
appointed and his
powers.

15. (1) For the purposes of disbursing the amounts payable to the prior allottees of Schedule I coal mines, the Central Government shall appoint an officer not below the rank of Joint Secretary to the Government of India, to be the Commissioner of Payments.

(2) The Central Government may appoint such other officers and staff as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such officers also to exercise all or any of the powers exercisable by him under this Ordinance.

(3) Any officer authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on him directly by this Ordinance and not by way of authorisation.

(4) The salaries and allowances and other terms and conditions of service of the Commissioner and other officers and staff appointed under this section shall be such as may be prescribed.

(5) The Central Government shall, within a period of thirty days from such date as may be notified, pay to the Commissioner for payment to the prior allottee, an amount equal to the compensation determined by the nominated

authority.

(6) Separate records shall be maintained by the Commissioner in respect of each Schedule I coal mine in relation to which payments have been made to him under this Ordinance.

16. (1) The quantum of compensation for the land in relation to Schedule I coal mines shall be as per the registered sale deeds lodged with the nominated authority in accordance with such rules as may be prescribed, together with twelve per cent. simple interest from the date of such purchase or acquisition, till the date of the execution of the vesting order or the allotment order, as the case may be.

Valuation of compensation for payment to prior allottee.

(2) The quantum of compensation for the mine infrastructure in relation to Schedule I coal mines shall be determined as per the written down value reflected in the statutorily audited balance sheet of the previous financial year in accordance with such rules and in such manner as may be prescribed.

(3) If the successful bidder or allottee is a prior allottee of any of the Schedule I coal mines, then, the compensation payable to such successful bidder or allottee shall be set off or adjusted against the auction sum or the allotment sum payable by such successful bidder or allottee, as the case may be, for any of the Schedule I coal mines.

(4) The prior allottee shall not be entitled to compensation till the additional levy has been paid.

CHAPTER IV

POWERS OF THE CENTRAL GOVERNMENT AFTER THE APPOINTED DATE

17. (1) On and from the appointed date, the Central Government or a company owned by the Central Government shall be deemed to have become the lessee or licensee of the State Government in relation to each of the Schedule II coal mines, in respect of which a mining lease or prospecting licence has been granted prior to the date of commencement of this Ordinance, as if a mining lease or prospecting licence in relation to such coal mine had been granted to the Central Government or a company owned by the Central Government and the period of such lease or licence shall be the maximum period for which such lease or licence could have been granted by the State Government under the Mineral Concession Rules, 1960, and thereupon all the rights under such mining lease, including surface, underground and other rights shall be deemed to have been transferred to, and vested

Responsibility of Central Government after the appointed date.

in, the Central Government or a company owned by the Central Government.

(2) On the expiry of the term of any lease or licence, referred to in sub-section (1), such lease or licence shall be renewed, by the State Government, in consultation with the Central Government for the maximum period for which such lease or licence can be renewed under the Mineral Concession Rules, 1960.

(3) As it is considered expedient and necessary in the public interest and in view of the difficult situation which has arisen, the powers of the State Government, under the Mines and Minerals (Development and Regulation) Act, 1957, to prematurely terminate a prospecting licence or mining lease, shall stand suspended, in relation to Schedule I coal mines, for a period of one year from the date of commencement of this Ordinance or such other period as may be notified by the Central Government. 67 of 1957.

Central Government to appoint designated custodian.

18. (1) On and from the appointed date, if the auction or allotment of Schedule I coal mines is not complete, the Central Government shall appoint any person as a designated custodian to manage and operate such coal mines as may be notified by the Central Government.

(2) The designated custodian shall act for and on behalf of the Central Government in respect of the notified coal mines under sub-section (1) to operate and manage such Schedule I coal mines in such manner as may be notified, till the completion of the auction of such coal mines or allotment under section 4 and section 5 read with section 8, as the case may be.

Powers and functions of the designated custodian in respect of Schedule II coal mines.

19. (1) The designated custodian appointed under sub-section (1) of section 18, shall be entitled to take control and possession of all lands, in or adjacent to Schedule II coal mines, and used for coal mining operations and the mine infrastructure in relation to Schedule II coal mine, on behalf of the Central Government.

(2) The designated custodian may direct the prior allottees or any other persons in charge of the management of the Schedule II coal mine and coal mining operations immediately before the appointed date to provide the requisite manpower, as may be necessary, to ensure continuity in coal mining operations and production of coal.

(3) The designated custodian shall receive, to the

exclusion of all other persons, any monies due to Schedule II coal mines, notwithstanding cases where such receipt pertains to a transaction made at any time before the appointed date.

(4) The designated custodian may call for any information, records and documents in relation to Schedule II coal mines and coal mining operations from any or all such persons who were in charge of the management and operation of such Schedule II coal mines prior to the appointed date, and such persons shall be bound to deliver to the designated custodian all such documents in their custody relating to Schedule II coal mines.

(5) The designated custodian may appoint such consultants or experts, as may be necessary, in relation to the management and operation of Schedule II coal mines.

(6) The designated custodian shall transfer the management and operation of any Schedule II coal mines to such person in such manner as may be prescribed.

(7) The designated custodian shall have rights, liabilities and obligations as a prior allottee or a successful bidder in respect of coal mines entrusted to it under section 18, to be exercised and discharged in such manner as may be prescribed.

(8) The designated custodian shall have the power to perform such other functions which may be consequential or incidental to the functions specified under this section.

(9) Notwithstanding anything contained in any other law for the time being in force, the designated custodian shall, in exercise of its powers or the performance of its functions under this Ordinance, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time.

CHAPTER V

CERTAIN ARRANGEMENTS

20. (1) A successful bidder or allottee or coal linkage holder shall, with prior approval of the Central Government and in accordance with such rules as may be prescribed, be entitled to enter into certain agreements or arrangements with other successful bidder or allottee or coal linkage holder, as the case may be, for optimum utilisation of coal mine for the same end-uses in the public interest and to achieve cost efficiencies.

Power of Central Government to approve certain arrangements.

(2) A successful bidder or allottee may also use the coal mine from a particular Schedule I coal mine for any of its

plants engaged in common specified end-uses, in accordance with such rules as may be prescribed.

CHAPTER VI

MISCELLANEOUS

Acquisition
of land.

21. (1) All existing land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in relation to Schedule I coal mines, shall continue in respect of such areas of land in accordance with the provisions of the said Act.

30 of 2013.

(2) All such areas of land which are not subject matter of land acquisition proceedings, in relation to the coal mines, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 may be proceeded with by the Central Government in terms of the Coal Bearing Areas (Acquisition and Development) Act, 1957.

30 of 2013.

20 of 1957.

(3) The State Governments which have initiated land acquisition proceedings under provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and all such lands which are also subject matter of the said Act in respect of Schedule I coal mines, shall—

30 of 2013.

(a) not transfer any land to the prior allottees which have been acquired under the said Act;

(b) continue the land acquisition proceedings till the appointed date;

(c) for such Schedule I coal mines which have not vested in the successful bidder or the allottee, as the case may be, by the appointed date, continue the land acquisition proceedings for and on behalf of the Central Government;

(d) upon the vesting or the allotment, as the case may be, after the appointed date, continue such land acquisition proceedings on behalf of the successful bidder or the allottee.

Realisation
of additional levy.

22. If a prior allottee of Schedule II coal mine fails to deposit the additional levy with the Central Government within the specified time, then, such additional levy shall be realised as the arrears of land revenue.

23. If any person—

(a) obstructs or causes any impediment in taking

Penalties for
certain offences.

possession or in the management and operation of the Schedule I coal mines by the Central Government or the designated custodian; or

(b) fails to deliver to the designated custodian any books of account, registers or any other document in his custody relating to Schedule I coal mines and coal mining operations in respect of the management of which the designated custodian has been appointed; or

(c) destroys or misuses any mine infrastructure or coal stock; or

(d) retains any property of such coal mine or removes or destroys it,

he and any officer-in-default of the company shall be punishable with imprisonment for a term which may extend to two years, or with the minimum fine of one lakh rupees per day and in the case of continuing failure, with a maximum fine of two lakh rupees for every day during which the failure continues or with both, depending upon the nature of the offence.

24. If any person fails to comply, without reasonable cause, with a direction given by the Central Government or nominated authority or the designated custodian, he shall be punishable with a fine of one lakh rupees and in the case of continuing failure with a maximum fine of two lakh rupees for every day during which the failure continues, depending upon the nature of the offence.

Penalty for failure to comply with directions of Central Government.

25. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director,

manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Cognizance of offences.

26. No court shall take cognizance of any offence punishable under this Ordinance or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or nominated authority or the designated custodian.

Dispute settlement and Bar of Jurisdiction of civil courts.

27. (1) Any dispute arising out of any action of the Central Government, nominated authority or Commissioner of Payment or designated custodian, or any dispute between the successful bidder or allottee and prior allottee arising out of any issue connected with the Ordinance shall be adjudicated by the Tribunal constituted under the Coal Bearing Areas (Acquisition and Development) Act, 1957

20 of 1957.

(2) Where the Central Government is of the opinion that any dispute arising out of any issue connected with the Ordinance exists or is apprehended and the dispute should be adjudicated by the Tribunal referred to in sub-section (1), then, the Central Government may by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, to the Tribunal for adjudication.

(3) The Tribunal referred to in sub-section (1) shall, after hearing the parties to the dispute, make an award in writing within a period of ninety days from the institution or reference of the dispute.

(4) On and from the commencement of the Ordinance, no court or other authority, except the Supreme Court and a High Court, shall have, or be entitled to exercise, any jurisdiction, powers or authority, in relation to matters connected with the Ordinance.

Protection of action taken in good faith.

28. No suit, prosecution or other legal proceeding shall lie against the Central Government, nominated authority, commissioner of payment, or designated custodian or any person acting on their behalf, in respect of anything which is done or intended to be done in good faith under this Ordinance.

29. The provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument having effect by virtue of any such law.

Ordinance to have overriding effect.

30. On and from the date of commencement of this

Amendment of certain Acts

26 of 1973.
67 of 1957.

Ordinance, the Coal Mines (Nationalisation) Act, 1973 and the Mines and Minerals (Development and Regulation) Act, 1957 shall stand amended in the manner provided in Schedule IV.

contained in
Schedule IV.

31. (1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Ordinance.

Power to make
rules.

(2) In particular, and without prejudice the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of allocation of Schedule I coal mines by way of public auction and details of fees under sub-section (1) of section 4;

(b) the terms and conditions for granting reconnaissance permit, prospecting licence or mining lease and the manner and conditions of competitive bidding under sub-section (2) of section 4;

(c) norms to become eligible to bid in an auction and the amount of investment in respect of a company having a coal linkage under sub-section (3) of section 4;

(d) the period within which the payment of additional levy by the prior allottee under sub-section (4) of section 4;

(e) the allotment order to make allocations to a Government company or corporation under sub-section (1) of section 5;

(f) the powers of the nominated authority under sub-section (1) of section 6;

(g) the manner of auction or allotment of Schedule I coal mines and execution of the vesting or allotment orders under sub-section (4) of section 6;

(h) the salaries and allowances and other terms and conditions of service of the nominated authority and other officers and staff under sub-section (6) of section 6;

(i) the manner of notifying the particulars of Schedule I coal mines to be auctioned and furnishing of required information by the prior allottees under sub-section (1) of section 8;

(j) the manner of conducting auction and drawing of a vesting order under sub-section (3) of section 8;

(k) determination of floor price by the nominated authority under sub-section (5) of section 8;

(l) the form and manner of furnishing of bank guarantee and the time within which such furnishing of bank guarantee under sub-section (6) of section 8;

(m) the manner of disbursement of priority payments under section 9;

(n) the manner of establishing title of movable property by the prior allottee or third party who has a contract with the prior allottee for the movable property under the first proviso to sub-section (5) of section 10;

(o) the manner of receiving compensation from the sale proceeds of the movable property under the second proviso to sub-section (5) of section 10;

(p) the manner in which the secured creditor paid out of the compensation in respect of any prior allottee under sub-section (2) of section 12;

(q) the manner of collection of additional levy by the Central Government from the prior allottees of Schedule II coal mines under sub-section (5) of section 14;

(r) the salaries and allowances and other terms and conditions of service of the Commissioner of payments and other officers and staff under sub-section (4) of section 15;

(s) the manner of determination of compensation payable to prior allottee and the lodging of registered sale deeds with the nominated authority under sub-section (1) of section 16;

(t) the method of determination of compensation for mine infrastructure in relation to Schedule I and its reflection in the statutorily audited balance sheet under sub-section (2) of section 16;

(u) the manner of transfer of the management and operation of any Schedule II coal mines by the designated custodian under sub-section (6) of section 19;

(v) the manner of exercising and discharging the rights, liabilities and obligations by the designated custodian under sub-section (7) of section 19;

(w) the manner of providing agreements or arrangements for optimum utilisation of coal mine for specified end-uses under sub-section (1) of section 20;

(x) the manner of usage of coal mine by a successful bidder or allottee for any of its plants under

sub-section (2) of section 20;

(v) any other matter which is required to be, or may be, prescribed.

(3) Every rule made and every notification issued by the Central Government, under this Ordinance, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

32. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

33. (1) The Coal Mines (Special Provisions) Ordinance, 2014 is hereby repealed.

Repeal
saving. and

5 of 2014.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall, without prejudice to the judgment of the Supreme Court dated 25th of August, 2014 and its order dated 24th September, 2014 passed in Writ Petition (Criminal) No. 120 of 2012, be deemed to have been done or taken under the corresponding provisions of this Ordinance.

SCHEDULE – I

[See section 3(1)(p)]

| Sl. No. | Name of Coal Mine/Block | Name of Prior Allottee | State where Coal Mine/Block Located. |
|---------|------------------------------|---|--------------------------------------|
| 1 | Tadicherla-I | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 2 | Anesttipali | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 3 | Punkula-Chilka | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 4 | Penagaddppa | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 5 | Namchik Namphuk | Arunachal Pradesh Mineral Dev. & Trading Corporation | Arunachal Pradesh |
| 6 | Sayang | AES Chhattisgarh Energy Pvt. Ltd | Chhattisgarh |
| 7 | Rajgamar Dipside (Deavnara) | API Ispat & Powertech Pvt. Ltd., CG Sponge Manufacturers Consortium Coalfield Pvt. Ltd. | Chhattisgarh |
| 8 | Durgapur-II/ Taraimar | Bharat Aluminium Company Ltd. | Chhattisgarh |
| 9 | Datima | Binani Cement Ltd. | Chhattisgarh |
| 10 | Tara | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 11 | Gare Pelma, Sector-I | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 12 | Shankarpur Bhatgaon II Extn. | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 13 | Sondhia | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 14 | Parsa | Chhattisgarh State Electricity Board | Chhattisgarh |
| 15 | Vijay Central | Coal India Limited, SKS Ispat & Power Ltd. | Chhattisgarh |
| 16 | Gidhmuri | Chhattisgarh State Electricity Board | Chhattisgarh |
| 17 | Paturia | Chhattisgarh State Electricity Board | Chhattisgarh |
| 18 | Durgapur-II /Sarya | DB Power Ltd. | Chhattisgarh |
| 19 | Bhaskarpara | Electrotherm (India) Ltd., Grasim Industries Ltd. | Chhattisgarh |
| 20 | West of Umaria | Sainik Finance and Industries Ltd. (Earlier Garuda Clays Ltd.) | Chhattisgarh |

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| 21 | Morga II | Gujrat Mineral Development Corporation | Chhattisgarh |
| 22 | Gare Palma Sector III | Goa Industrial Development Corporation | Chhattisgarh |
| 23 | Madanpur South | Hindustan Zinc Ltd., Akshya Investment Pvt. Ltd, Chhattisgarh Steel & Power Ltd., Chhattisgarh Electricity Corporation Ltd., MSP Steel & Power Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Cos.) | Chhattisgarh |
| 24 | Nakia I | Ispat Godavari Ltd. , Ind Agro Synergy Ltd., Shri Nakoda Ispat Ltd., Vandana Gobal Ltd., Shree Bajrang Power & Ispat Ltd. | Chhattisgarh |
| 25 | Nakia II | Ispat Godavari, Ind Agro Synergy, Shri Nakoda Ispat, Vandana Gobal Ltd., Shree Bajrang Power & Ispat Ltd. | Chhattisgarh |
| 26 | Gare-Palma- IV/4 | Jayaswal Neco Ltd. | Chhattisgarh |
| 27 | Gare Palma IV/8 | Jayaswal Neco Ltd. | Chhattisgarh |
| 28 | Gare-Palma-IV/2 | Jindal Power Ltd (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 29 | Gare-Palma-IV/3 | Jindal Power Ltd (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 30 | Gare-Palma-IV/1 | Jindal Strips Limited (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 31 | Gare Palma IV/6 | Jindal Steel & Power Ltd, Nalwa Sponge Iron Ltd. | Chhattisgarh |
| 32 | Fatehpur East | JLD Yavatmal Energy Ltd, R.K.M. Powergen Pvt. Ltd, Visa Power Ltd, Green Infrastructure Pvt Ltd, Vandana Vidyut Ltd | Chhattisgarh |
| 33 | Morga-I | Madhya Pradesh State Mining Corporation Limited | Chhattisgarh |
| 34 | Morga III | Madhya Pradesh State Mineral Corporation Limited | Chhattisgarh |
| 35 | Morga IV | Madhya Pradesh State Mineral Corporation Limited | Chhattisgarh |
| 36 | Gare Palma Sector II | Maharashtra State Mining Corpn Ltd. , Tamil Nadu State Electricity Board | Chhattisgarh |
| 37 | Gare-Palma-IV/5 | Monnet Ispat Ltd | Chhattisgarh |
| 38 | Rajgamar Dipside (South of Phulakdih Nala) | Monnet Ispat and Energy Ltd, Topworth Steel Pvt. Ltd. | Chhattisgarh |
| 39 | Talaipali | National Thermal Power Ltd. | Chhattisgarh |

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| 40 | Chotia | Prakash Industries Ltd | Chhattisgarh |
| 41 | Gare-Palma-IV/7 | Raipur Alloys & Steel Ltd (Now Sarda Energy and Mineral Limited) | Chhattisgarh |
| 42 | Parsa East | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 43 | Kesla North | Rathi Udyog Ltd. | Chhattisgarh |
| 44 | Kanta Basan | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 45 | Panchbahani | Shree Radhe Industries Ltd. | Chhattisgarh |
| 46 | Fatehpur | SKS Ispat and Power Ltd., Prakash Industries Ltd. | Chhattisgarh |
| 47 | Madanpur (North) | Ultratech Ltd., Singhal Enterprise Ltd., Nav bharat Coalfield Ltd., Vandana Energy & Steel Pvt. Ltd., Prakash Industries Ltd, Anjani Steel Pvt. Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Co.) | Chhattisgarh |
| 48 | Brinda | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 49 | Sasai | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 50 | Meral | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 51 | Seregarha | Arcelor Mittal India Ltd, GVK Power (Govindwal Sahib) Ltd. | Jharkhand |
| 52 | Patal East | Bhushan Power and Steel Ltd. | Jharkhand |
| 53 | Saria Koiyatand | Bihar Rajya Khanij Vikas Nigam (BRKVN) Patna. | Jharkhand |
| 54 | Macherkunda | Bihar Sponge Iron Ltd. | Jharkhand |
| 55 | Brahmadiha | Castron Technologies Ltd. | Jharkhand |
| 56 | Mahuagarhi | Calcutta Electricity Supply Corporation Ltd. (CESC), Jas Infrastructure Capital Pvt. Ltd | Jharkhand |
| 57 | Chitarpur | Corporate Ispat Alloys Ltd. | Jharkhand |
| 58 | Saharpur Jamarpanj | Damodar Valley Corporation | Jharkhand |
| 59 | Lalgarh (North) | Domco Smokeless Fuel Pvt. Ltd. | Jharkhand |
| 60 | Parbatpur-Central | Electrosteel castings Ltd. | Jharkhand |
| 61 | Chakla | Essar Power Ltd. | Jharkhand |
| 62 | Ashok Karkatta Central | Essar Power Ltd. | Jharkhand |
| 63 | Jainagar | Gujarat Mineral Development Corporation (GMDC) | Jharkhand |
| 64 | Tokisud North | GVK Power (Govindwal Sahib) Ltd. | Jharkhand |
| 65 | Tubed | Hindalco Industries Ltd., Tata Power Company Ltd. | Jharkhand |

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| 66 | Moitra | Jayaswal Neco Ltd. | Jharkhand |
| 67 | North Dhadu | Jharkhand Ispat Pvt. Ltd, Pavanjay Steel & Power Ltd, Electrosteel Castings Ltd., Adhunik Alloys & Power Ltd. | Jharkhand |
| 68 | Banhardih | Jharkhand State Electricity Board | Jharkhand |
| 69 | Sugia Closed mine | Jharkhand State Mineral Development Corporation | Jharkhand |
| 70 | Rautā Closed mine | Jharkhand State Mineral Development Corporation | Jharkhand |
| 71 | Burakhap small patch | Jharkhand State Mineral Development Corporation | Jharkhand |
| 72 | Pindra-Debipur-Khaowatand | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 73 | Latehar | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 74 | Patratu | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 75 | Rabodih OCP | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 76 | Jogeshwar & Khas Jogeshwar | Jharkhand State Mineral Development Corporation | Jharkhand |
| 77 | Jitpur | Jindal Steel & Power Ltd. | Jharkhand |
| 78 | Amarkonda Murgadangal | Jindal Steel and Power Ltd, Gagan Sponge Iron Pvt. Ltd | Jharkhand |
| 79 | Urma Paharitola | Jharkhand State Electricity Board, Bihar State Mineral Development Corporation Ltd. | Jharkhand |
| 80 | Rohne | JSW Steel Ltd., Bhushan Power & Steel Ltd., Jai Balaji Industries Ltd | Jharkhand |
| 81 | Gomia | Metals and Minerals Trading Corporation | Jharkhand |
| 82 | Rajhara North (Central & Eastern) | Mukund Limited, Vini Iron & Steel Udyog Limited | Jharkhand |
| 83 | Dumri | Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd. | Jharkhand |
| 84 | Kerandari | National Thermal Power Ltd. | Jharkhand |
| 85 | Chatti Bariatu | National Thermal Power Ltd. | Jharkhand |
| 86 | Chhati Bariatu South | National Thermal Power Ltd. | Jharkhand |
| 87 | Brahmini | National Thermal Power Ltd.+ Coal India Limited JV | Jharkhand |

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| 88 | Chichro Patsimal | National Thermal Power Ltd.+ Coal India Limited JV | Jharkhand |
| 89 | Pachwara Central | Punjab State Electricity Board | Jharkhand |
| 90 | Mahal | Rashtriya Ispat Nigam Limited | Jharkhand |
| 91 | Tenughat-Jhirki | Rashtriya Ispat Nigam Limited | Jharkhand |
| 92 | Bundu | Rungta Mines Limited | Jharkhand |
| 93 | Mednirai | Rungta Mines Limited, Kohinor Steel (P) Ltd. | Jharkhand |
| 94 | Choritand Tiliaya | Rungta Mines Limited, Sunflag Iron & Steel Co. Ltd. | Jharkhand |
| 95 | Sitanala | Steel Authority of India Ltd. | Jharkhand |
| 96 | Ganeshpur | Tata Steel Ltd., Adhunik Thermal Energy | Jharkhand |
| 97 | Badam | Tenughat Vidyut Nigam Limited | Jharkhand |
| 98 | Rajbar E&D | Tenughat Vidyut Nigam Limited | Jharkhand |
| 99 | Gondulpara | Tenughat Vidyut Nigam Limited, Damodar Valley Corporation | Jharkhand |
| 100 | Kotre -Basantpur | Tata Iron and Steel Co. Ltd.(Now Tata Steel Ltd.) | Jharkhand |
| 101 | Pachmo | Tata Iron and Steel Co. Ltd..(Now Tata Steel Ltd.) | Jharkhand |
| 102 | Lohari | Usha Martin Ltd. | Jharkhand |
| 103 | Kathautia | Usha Martin Ltd | Jharkhand |
| 104 | Pachwara North | West Bengal Power Development Corporation Limited (WBPDC) | Jharkhand |
| 105 | Suliyari | Andhra Pradesh Mineral Development Corporation | Madhya Pradesh |
| 106 | Bikram | Birla Corporation Ltd. | Madhya Pradesh |
| 107 | Gotitoria (East) | BLA Industries Ltd. | Madhya Pradesh |
| 108 | Gotitoria (West) | BLA Industries Ltd. | Madhya Pradesh |
| 109 | Mahan | Essar Power Ltd., Hindalco Industries Ltd. | Madhya Pradesh |
| 110 | Mandla North | Jaiprakash Associates Ltd | Madhya Pradesh |
| 111 | Urtan North | Jindal Steel & Power Ltd, Monet Ispat and Energy Ltd | Madhya Pradesh |
| 112 | Thesgora-B/ Rudrapuri | Kamal Sponge Steel & Power Limited, Revati Cement P. Ltd. | Madhya Pradesh |
| 113 | Amelia | Madhya Pradesh State Mining Corporation | Madhya Pradesh |
| 114 | Amelia (North) | Madhya Pradesh State Mining Corporation | Madhya Pradesh |
| 115 | Mandla South | Madhya Pradesh State Mining Corporation Ltd. | Madhya Pradesh |
| 116 | Dongeri Tal-II | Madhya Pradesh State Mining Corporation Ltd. (MPSMC) | Madhya Pradesh |

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| 117 | Marki Barka | Madhya Pradesh State Mining Corporation (MPSMC) | Madhya Pradesh |
| 118 | Semaria/Piparia | Madhya Pradesh State Mining Corporation (MPSMC) | Madhya Pradesh |
| 119 | Bicharpur | Madhya Pradesh State Mining Corporation Ltd.(MPSMC) | Madhya Pradesh |
| 120 | Tandsi-III & Tandsi -III (Extn.) | Mideast Integrated Steels Ltd. | Madhya Pradesh |
| 121 | Sahapur East | National Mineral Dev. Corp | Madhya Pradesh |
| 122 | Sahapur West | National Mineral Dev. Corp | Madhya Pradesh |
| 123 | Mara II Mahan | NCT of Delhi, Delhi, Haryana Power Generation Generation Corp Ltd. (HPGCL) | Madhya Pradesh |
| 124 | Sial Ghoghri | Prism Cement Limited | Madhya Pradesh |
| 125 | Brahampuri | Pushp Steel and Mining Ltd. | Madhya Pradesh |
| 126 | Rawanwara North | SKS Ispat Limited | Madhya Pradesh |
| 127 | Bander | AMR Iron & Steels Pvt. Ltd., Century Textiles & Industries Ltd., J.K. Cement Ltd. | Maharashtra |
| 128 | Marki Mangli-I | B.S. Ispat Ltd. | Maharashtra |
| 129 | Takli-Jena-Bellora (North) & Takli-Jena-Bellora (South) | Central Collieries Co. Ltd. and Lloyds Metals & Engineering Ltd. | Maharashtra |
| 130 | Dahegaon/ Makard hokra- IV | IST Steel & Power Ltd, Gujarat Ambuja Cement Ltd., Lafarge India Pvt. Ltd. | Maharashtra |
| 131 | Gondkhari | Maharashtra Seamless Limited, Dhariwal Infrastructure (P) Ltd., Kesoram Industries Ltd. | Maharashtra |
| 132 | Marki-Zari-Jamani-Adkoli | Maharashtra State Mining Corpn. Ltd. | Maharashtra |
| 133 | Lohara (East) | Murli Industries Ltd., Grace Industries Ltd. | Maharashtra |
| 134 | Khappa & Extn. | Sunflag Iron & Steel Ltd, Dalmia Cement (Bharat) Ltd. | Maharashtra |
| 135 | Lohara West Extn. | Adani Power Ltd | Maharashtra |
| 136 | Warora West (North) | Bhatia International Ltd. | Maharashtra |
| 137 | Kosar Dongergaon | Chaman Metaliks Ltd. | Maharashtra |
| 138 | Warora (West) Southern Part | Fieldmining & Ispat Ltd. | Maharashtra |
| 139 | Chinora | Fieldmining & Ispat Ltd. | Maharashtra |

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| 140 | Majra | Gondwana Ispat Ltd. | Maharashtra |
| 141 | Nerad Malegaon | Gupta Metalics & Power Ltd., Gupta Coalfields & Washeries Ltd. | Maharashtra |
| 142 | Baranj - I | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 143 | Baranj - II | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 144 | Baranj - III | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 145 | Baranj - IV | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 146 | Kiloni | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 147 | Manora Deep | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 148 | Agarzari | Maharashtra State Mining Corporation Limited (MSMCL) | Maharashtra |
| 149 | Warora | Maharashtra State Mining Corporation Limited (MSMCL) | Maharashtra |
| 150 | Bhandak West | Shree Baidyanath Ayurved Bhawan Ltd. | Maharashtra |
| 151 | Marki Mangli-II | Shree Veerangana Steel Limited. | Maharashtra |
| 152 | Marki Mangli-III | Shree Veerangana Steel Limited. | Maharashtra |
| 153 | Marki Mangli-IV | Shree Veerangana Steel Limited. | Maharashtra |
| 154 | Belgaon | Sunflag Iron & Steel Co. Ltd | Maharashtra |
| 155 | Mandakini B | Assam Mineral Dev. Corporation Ltd., Meghalaya Mineral Dev. Corp, Tamil Nadu Electricity Board, Odisha Mining Corporation Ltd. | Odisha |
| 156 | New Patrapara | Bhusan Steel & Strips Ltd., Adhunik Metaliks Ltd., Deepak Steel & Power Ltd., Adhunik Corp. Ltd., Odisha Sponge Iron Ltd., SMC Power Generation Ltd., Sree Metaliks Ltd., Visa Steel Ltd. | Odisha |
| 157 | Bijahan | Bhushan Ltd, Shri Mahavir Ferro Alloys Pvt. Limited | Odisha |
| 158 | Jamkhani | Bhushan Ltd. | Odisha |
| 159 | Naini | Gujarat Mineral Development Corporation, Pondichery Industrial Promotion Development and Investment Corporation Limited | Odisha |
| 160 | Mahanadi | Gujarat State Electricity Corporation Limited, Maharashtra State Electricity Board | Odisha |
| 161 | Machhakata | Gujarat State Electricity Corporation Limited, Maharashtra State Electricity Board | Odisha |
| 162 | Talabira-I | Hindalco Industries Ltd. | Odisha |
| 163 | Ramchandi Promotion Block | Jindal Steel & Power Limited | Odisha |

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|-----|-----------------------------|--|--------|
| 164 | Utkal B 1 | Jindal Steel & Power Ltd. | Odisha |
| 165 | Baitarni West | Kerala State Electricity Board, Odisha Hydro Power Corp., Gujarat Power Corporation Ltd. | Odisha |
| 166 | Talabira II & III | Mahanadi Coalfields Ltd.(MCL), Neyveli Lignite Corporation Ltd., Hindalco Industries Ltd. | Odisha |
| 167 | Utkal-A | Mahanadi Coalfields Ltd.(MCL), JSW Steels Ltd., Jindal Thermal Power Comp. Ltd., Jindal Stainless Steels Ltd., Shyam DRI Ltd. | Odisha |
| 168 | Utkal-B2 | Monet Ispat Ltd | Odisha |
| 169 | Mandakini | Monet Ispat Energy Ltd, Jindal Photo Ltd, Tata Power Company Ltd | Odisha |
| 170 | Utkal 'E' | National Aluminium Corporation | Odisha |
| 171 | Dulanga | National Thermal Power Corporation | Odisha |
| 172 | Utkal-D | Odisha Mining Corporation | Odisha |
| 173 | Nuagaon Telisahi | Odisha Mining Corporation, Andhra Pradesh Mineral Development (APMDC) | Odisha |
| 174 | Manoharpur | Odisha Power Generation Corporation | Odisha |
| 175 | Dipside Manoharpur | Odisha Power Generation Corporation | Odisha |
| 176 | Radhikapur(West) | Rungta Mines Limited, OCL India Ltd., Ocean Ispat Ltd. | Odisha |
| 177 | Rampia | Sterlite Energy Ltd., (IPP), GMR Energy Ltd. (IPP), Arcelor Mittal India Ltd. (CPP), Lanco Group Ltd. (IPP), Navbharat Power Pvt. Ltd. (IPP), Reliance Energy Ltd. (IPP) | Odisha |
| 178 | Dip Side of Rampia | Sterlite Energy Ltd., (IPP), GMR Energy (IPP), Arcelor Mittal India Ltd. (CPP), Lanco Group Ltd. (IPP), Navbharat Power Pvt. Ltd. (IPP), Reliance Energy Ltd. (IPP) | Odisha |
| 179 | North of Arkhapal Srirampur | Strategic Energy Technology Systems Limited (SETSL) | Odisha |
| 180 | Radhikapur(East) | Tata Sponge Iron Ltd, Scaw Industries Ltd, SPS Sponge Iron Ltd | Odisha |
| 181 | Chendipada, | Uttar Pradesh Rajya Vidut Utpadan Limited, Chattishgarh Mineral Development Corporation Limited, Maharashtra State Power Generation Corporation Ltd. | Odisha |

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|-----|-----------------------|---|-------------|
| 182 | Chendipada-II | Uttar Pradesh Rajya Vidut Utpadan Limited ,Chattishgarh Mineral Development Corporation Limited , Maharashtra State Power Generation Corporation Ltd. | Odisha |
| 183 | Utkal-C | Utkal Coal Ltd.(formerly ICCL) | Odisha |
| 184 | Biharinath | Bankura DRI Mining Manufacturers Co. Pvt. Ltd. | West Bengal |
| 185 | Andal East | Bhushan Steel Ltd.,Jai Balaji Industries Ltd.,Rashmi Cement Ltd. | West Bengal |
| 186 | Barjora (North) | Damodar Valley Corporation | West Bengal |
| 187 | Kagra Joydev | Damodar Valley Corporation | West Bengal |
| 188 | Kasta (East) | Damodar Valley Corporation | West Bengal |
| 189 | Gourangdih ABC | Himachal EMTA Power Ltd.,JSW Steel Ltd. | West Bengal |
| 190 | Moirra-Madhujore | Ramsarup Lohh Udyog Ltd., Adhunik Corporation Ltd.,Uttam Galva Steels Ltd.,Howrah Gases Ltd.,Vikas Metal & Power Ltd., ACC Ltd. | West Bengal |
| 191 | Sarisatolli | Calcutta Electricity Supply Corporation Ltd, | West Bengal |
| 192 | Ardhagram | Sova Ispat Limited,Jaibalaji Sponge Ltd. | West Bengal |
| 193 | Tara (West) | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 194 | Gangaramchak | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 195 | Barjora | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 196 | Gangaramchak-Bhadulia | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 197 | Tara (East) | West Bengal State Electricity Board | West Bengal |
| 198 | Jaganathpur B | West Bengal Mineral Development & Trading. Corp. | West Bengal |
| 199 | Sitarampur | West Bengal Mineral Dev. & Trading Corp. Ltd. | West Bengal |
| 200 | Trans Damodar | West Bengal Mineral Dev. & Trading. Corp. Ltd. | West Bengal |
| 201 | Ichhapur | West Bengal Mineral Dev. & Trading. Corp. Ltd. | West Bengal |
| 202 | Kulti | West Bengal Mineral Dev. & Trading. Corp. Ltd. | West Bengal |
| 203 | Jaganathpur A | West Bengal Mineral Dev. & Trading. Corp. Ltd. | West Bengal |

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| 204 | East of Damogoria (Kalyaneshwari) | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
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SCHEDULE – II
[See section 3(1)(q)]

| Sl. No. | Name of Coal Mine/Block | Name of Prior Allottee | State where Coal Mine/Block Located |
|---------|-------------------------|--|-------------------------------------|
| 1 | Namchik Namphuk | Arunachal Pradesh Mineral Dev. & Trading Corporation | Arunachal Pradesh |
| 2 | Gare-Palma- IV/4 | Jayaswal Neco Ltd. | Chhattisgarh |
| 3 | Gare-Palma-IV/2 | Jindal Power Ltd (Now Jindal Steel & Power Ltd) | Chhattisgarh |
| 4 | Gare-Palma-IV/3 | Jindal Power Ltd. (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 5 | Gare-Palma-IV/1 | Jindal Strips Limited (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 6 | Gare-Palma-IV/5 | Monet Ispat Ltd. | Chhattisgarh |
| 7 | Chotia | Prakash Industries Ltd. | Chhattisgarh |
| 8 | Gare-Palma-IV/7 | Raipur Alloys & Steel Ltd.(Now Sarda Energy and Mineral Limited) | Chhattisgarh |
| 9 | Parsa East | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 10 | Kanta Basan | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 11 | Parbatpur-Central | Electrosteel Castings Ltd. | Jharkhand |
| 12 | Tokisud North | GVK Power (Govindwal Sahib) Ltd. | Jharkhand |
| 13 | Pachwara Central | Punjab State Electricity Board | Jharkhand |
| 14 | Kathautia | Usha Martin Ltd. | Jharkhand |
| 15 | Pachwara North | West Bengal Power Development Corporation Limited (WBPDC) | Jharkhand |
| 16 | Gotitoria (East) | BLA Industries Ltd. | Madhya Pradesh |
| 17 | Gotitoria (West) | BLA Industries Ltd. | Madhya Pradesh |

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|----|------------------|---|----------------|
| 18 | Mandla North | Jaipraskash Associates Ltd | Madhya Pradesh |
| 19 | Amelia (North) | Madhya Pradesh State Mining Corporation | Madhya Pradesh |
| 20 | Bicharpur | Madhya Pradesh State Mining Corporation Ltd.(MPSMC) | Madhya Pradesh |
| 21 | Sial Ghoghri | Prism Cement Limited | Madhya Pradesh |
| 22 | Marki Mangli-I | B.S. Ispat Ltd. | Maharashtra |
| 23 | Baranj - I | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 24 | Baranj - II | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 25 | Baranj - III | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 26 | Baranj - IV | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 27 | Kiloni | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 28 | Manora Deep | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 29 | Marki Mangli-II | Shree Veerangana Steels Limited. | Maharashtra |
| 30 | Marki Mangli-III | Shree Veerangana Steels Limited. | Maharashtra |
| 31 | Belgaon | Sunflag Iron & Steel Co. Ltd. | Maharashtra |
| 32 | Talabira-I | Hindalco Industries Ltd. | Odisha |
| 33 | Barjora (North) | Damodar Valley Corporation | West Bengal |
| 34 | Kagra Joydev | Damodar Valley Corporation | West Bengal |
| 35 | Sarisatolli | Calcutta Electricity Supply Corporation Ltd, | West Bengal |
| 36 | Ardhagram | Sova Ispat Limited, Jai balaji Sponge Ltd. | West Bengal |
| 37 | Tara (West) | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 38 | Gangaramchak | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |

| | | | |
|----|-----------------------|---|-------------|
| 39 | Barjora | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 40 | Gangaramchak-Bhadulia | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 41 | Tara (East) | West Bengal State Electricity Board | West Bengal |
| 42 | Trans Damodar | West Bengal Mineral Dev. & Trading. Corp. Ltd. | West Bengal |

SCHEDULE III

[See section 3(1)(r)]

| Sl. No. | Name of Coal Mine/Block | Name of Prior Allottee | State where Coal Mine/Block Located |
|---------|---------------------------|---|-------------------------------------|
| 1 | Durgapur-II/ Taraimar | Bharat Alluminium Company Ltd. | Chhattisgarh |
| 2 | Durgapur-II /Sarya | DB Power Ltd. | Chhattisgarh |
| 3 | Gare Pelma Sector- III | Goa Industrial Development Corporation | Chhattisgarh |
| 4 | Gare Palma IV/8 | Jayaswal Neco Ltd. | Chhattisgarh |
| 5 | Talaipali | National Thermal Power Ltd. | Chhattisgarh |
| 6 | Chatti Bariatu | National Thermal Power Ltd. | Jharkhand |
| 7 | Mahan | Essar Power Ltd., Hindalco Industries Ltd. | Madhya Pradesh |
| 8 | Mandla South | Madhya Pradesh State Mining Corporation Ltd. | Madhya Pradesh |
| 9 | Dongeri Tal-II | Madhya Pradesh State Mining Corporation Ltd. (MPSMC) | Madhya Pradesh |
| 10 | Kosar Dongergaon | Chaman Metaliks Ltd. | Maharastra |
| 11 | Nerad Malegaon | Gupta Metalics & Power Ltd., Gupta Coalfields & Washeries Ltd. | Maharastra |
| 12 | Marki Mangli-IV | Shree Veerangana Steel Limited. | Maharastra |
| 13 | Jamkhani | Bhushan Ltd. | Odisha |
| 14 | Utkal- B 1 | Jindal Steel & Power Ltd. | Odisha |
| 15 | Utkal-B2 | Monet Ispat Ltd | Odisha |
| 16 | Mandakini | Monet Ispat Energy Ltd, Jindal Photo Ltd, Tata Power Company Ltd. | Odisha |
| 17 | Utkal-C | Utkal Coal Ltd. (formerly ICCL) | Odisha |

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|----|------------|---|--------------|
| 18 | Brinda | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 19 | Sasai | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 20 | Meral | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 21 | Mibitra | Jayaswal Neco Ltd. | Jharkhand |
| 22 | Jitpur | Jindal Steel & Power Ltd. | Jharkhand |
| 23 | Rohne | JSW Steel Ltd., Bhushan Power & Steel Ltd., Jai Balaji Industries Ltd | Jharkhand |
| 24 | Dumri | Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd. | Jharkhand |
| 25 | Kerandari | National Thermal Power Ltd. | Jharkhand |
| 26 | Sitanala | Steel Authority of India Ltd. | Jharkhand |
| 27 | Ganeshpur | Tata Steel Ltd., Adhunik Thermal Energy | Jharkhand |
| 28 | Badam | Tenughat Vidyut Nigam Limited | Jharkhand |
| 29 | Tara | Chhattisgarh Mineral Development Corporation Ltd. | Chhattisgarh |
| 30 | Lohari | Usha Martin Ltd. | Jharkhand |
| 31 | Dulanga | National Thermal Power Corporation | Odisha |
| 32 | Manoharpur | Odisha Power Generation Corporation | Odisha |

SCHEDULE IV

(See section 28)

PART A

THE COAL MINES (NATIONALISATION) ACT, 1973

(26 OF 1973)

Amendment of section 1A. 1. In the Coal Mines (Nationalisation) Act, 1973 (herein referred to as the principal Act), in sub-section (1) of section 1A, after the word and figure "section 3", the word, figure and letter " , section 3A " shall be inserted.

Insertion of new section 3A. 2. After section 3 of the principal Act, the following section shall be inserted, namely:—

Mining operation company and others.

'3A. (1) Notwithstanding anything contained in this Act, any person being—

(a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or

(b) a company or a joint venture company formed by two or more companies,

that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the prospecting licence or mining lease, as the case may be.

(2) The Central Government may, with a view to rationalise such coal mines so as to ensure the coordinated and scientific development and utilisation of coal resources consistent with the growing requirements of the country, from time to time, prescribe—

(i) the coal mines or coal bearing areas and their location;

(ii) the minimum size of the coal mine or coal bearing areas;

(iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of coal mining operations or mining for sale by a company.

Explanation.—For the purposes of this section, "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013)..!

Amendment of section 34.

3. In section 34 of the principal Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

"(aa) the coal mines or coal bearing areas and their location, the minimum size of the coal mine or coal bearing areas, and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (2) of section 3A."

PART B

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957
(67 OF 1957)

Substitution of new section for section 11A. 1. In the Mines and Minerals (Development and Regulation) Act, 1957 (herein referred to as the principal Act), for section 11A, the following section shall be substituted, namely:—

Granting of reconnaissance permit, prospecting licence or mining lease.

11A. (1) Notwithstanding anything contained in this Act, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed, namely:—

(a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or

(b) a company or a joint venture company formed by two or more companies,

that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be.

(2) The Central Government may, with a view to rationalise coal and lignite mines referred to in sub-section (1), so as to ensure the coordinated and scientific development and utilisation of resources consistent with the growing requirements of the country, from time to time, prescribe—

(i) the details of mines and their location;

(ii) the minimum size of such mines;

(iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of mining operations or mining for sale by a company.

(3) The State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite to such company as selected through auction by competitive bidding or otherwise under this section:

Provided that the auction by competitive bidding under this section shall not be applicable to an area containing coal or lignite—

(a) where such area is considered for allocation to a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be;

(b) where such area is considered for allocation to a company or corporation or that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

Explanation.—For the purposes of this section, "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013).¹

Amendment of
section 13.

2. In section 13 of the principal Act, in sub-section (2), for clause (d), the following clause shall be substituted, namely:—

"(d) the terms and conditions of auction by competitive bidding, the details of mines and their location, the minimum size of such mines and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (1) and sub-section (2) of section 11A."

Sd/-

PRANAB MUKHERJEE,
President.

Sd/-

P. K. Malhotra,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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TUESDAY, JANUARY 20, 2015/PAUSA 30, 1936

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 19th January, 2015.

No. RPB/8-2014/Ord-08-2014/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section I, Dated the 26th December, 2014 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 2014, Pausa 5, 1936 (Saka)

THE INSURANCE LAWS (AMENDMENT) ORDINANCE, 2014

No. 8 of 2014

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

WHEREAS the Insurance Laws (Amendment) Bill, 2008 further to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999 was introduced in the Council of States on the 22nd December, 2008 and was referred to the Department related Parliamentary Standing Committee on Finance for examination and Report;

AND WHEREAS the Parliamentary Standing Committee had submitted its Report on the 13th December, 2011;

AND WHEREAS the said Bill along with the official amendments prepared on the basis of the recommendations of the Standing Committee could not be taken up for consideration and passing in the Council of States;

AND WHEREAS the said Bill was further referred to the Select Committee of the Council of States for examination and Report and the Committee submitted its Report, alongwith the Insurance Laws (Amendment) Bill, 2014 incorporating therein the amendments decided by the Committee, on the 10th December, 2014;

AND WHEREAS the Insurance Laws (Amendment) Bill, 2014, as reported by the Select Committee, could not be taken up for consideration and passing in the Council of States;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

1. (1) This Ordinance may be called the Insurance Laws (Amendment) Ordinance, 2014.

Short title and commencement.

(2) It shall come into force at once.

CHAPTER II AMENDMENTS TO THE INSURANCE ACT, 1938

4 of 1938.

2. In the Insurance Act, 1938 (hereafter in this Chapter referred to as the Insurance Act), throughout the Act,—

Substitution of references of references to certain expressions by certain other expressions.

7 of 1913.
18 of 2013.

(a) for the words and figures "the Indian Companies Act, 1913", wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted;

1 of 1956.
18 of 2013.

(b) for the words and figures "the Companies Act, 1956", wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted;

3. In section 2 of the Insurance Act,—

Amendment of section 2.

(i) for clauses (1) and (1A), the following clauses shall be substituted, namely:—

(1) "actuary" means an actuary as defined in clause (a) of sub-section (1) of section 2 of the Actuaries Act,

35 of 2006.

2006;

41 of 1999.

(1A) "Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999;

(ii) clause (5A) shall be omitted;

(iii) after clause (6B), the following clause shall be inserted, namely:—

“(6C) “health insurance business” means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, whether in-patient or out-patient travel cover and personal accident cover;”;

(iv) for clause (7A), the following clause shall be substituted, namely:—

“(7A) “Indian insurance company” means any insurer, being a company which is limited by shares, and,—

18 of 2013.

(a) which is formed and registered under the Companies Act, 2013 as a public company or is converted into such a company within one year of the commencement of the Insurance Laws (Amendment) Ordinance, 2014;

(b) in which the aggregate holdings of equity shares by foreign investors, including portfolio investors, do not exceed forty-nine per cent. of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed.

Explanation.—For the purposes of this sub-clause, the expression “control” shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.”;

(c) whose sole purpose is to carry on life insurance business or general insurance business or re-insurance business or health insurance business;

(v) clause (8) shall be omitted;

(vi) in clause (8A),—

(I) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) having a minimum paid-up capital of rupees one hundred crores in case of life insurance business, general insurance business and health insurance business;”;

(II) in sub-clause (d), after the words “general insurance business”, the words “or health insurance business” shall be inserted;

(vii) for clause (9), the following clause shall be substituted, namely:—

“(9) “insurer” means:—

(a) an Indian Insurance Company, or

(b) a statutory body established by an Act of Parliament to carry on insurance business, or

(c) an insurance co-operative society, or

(d) a foreign company engaged in re-insurance business through a branch established in India.

Explanation.— For the purposes of this sub-clause, the expression “foreign company” shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd’s established under the Lloyd’s Act, 1871 (United Kingdom) or any of its Members;”;

(viii) in clause (10), the words and figures “licensed under section 42” shall be omitted;

(ix) in clause (11), in sub-clause (c), for the words “annuities payable out of any fund”, the words “benefit payable out of any fund” shall be substituted;

(x) clauses (12), (13) and (15) shall be omitted;

7 of 1913.

18 of 2013.

(xi) in clause (16), for the words, brackets, figures and letter "clauses (13) and (13A) of section 2 of the Indian Companies Act, 1913", the words, brackets and figures "clause (68) and clause (72) of section 2 of the Companies Act, 2013" shall be substituted;

(xii) after clause (16), the following clauses shall be inserted, namely:—

41 of 1999.

(16A) "regulations" means the regulations framed by the Insurance Regulatory and Development Authority of India established under the Insurance Regulatory and Development Authority Act, 1999;

(16B) "re-insurance" means the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium;

15 of 1992.

(16C) "Securities Appellate Tribunal" means the Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992; ;

(xiii) clause (17) shall be omitted.

4. After section 2CA of the Insurance Act, the following section shall be inserted, namely :—

Insertion of new section 2CB.

"2CB. (1) No person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority.

Properties in India not to be insured with foreign insurers except with the permission of Authority.

(2) If any person contravenes the provision of sub-section (1), he shall be liable to a penalty which may extend to five crore rupees."

5. Section 2E of the Insurance Act shall be omitted.

Omission of section 2E.

7. In section 3 of the Insurance Act,—

Amendment of section 3.

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every application for registration shall be made in such manner and shall be accompanied by such documents as

may be specified by the regulations.”;

(ii) in sub-section (2A), in clause (d), for the figures, letter and word “5, 31A and 32”, the figures, word and letter “5 and 31A” shall be substituted;

(iii) for sub-section (2C), the following sub-section shall be substituted, namely:—

“(2C) Any person aggrieved by the decision of the Authority refusing registration may, within thirty days from the date on which a copy of the decision is received by him, appeal to the Securities Appellate Tribunal.”;

(iv) sub-section (2D) shall be omitted;

(v) for sub-sections (3), (4), (5) and (5A), the following sub-sections shall be substituted, namely:—

“(3) In the case of any insurer having joint venture with a person having its principal place of business domiciled outside India or any insurer as defined in sub-clause (d) of clause (9) of section 2, the Authority may withhold registration already made if it is satisfied that in the country in which such person has been debarred by law or practice of that country to carry on insurance business.

(4) The Authority may suspend or cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business, as the case may be,—

(a) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or

(b) if the insurer is in liquidation or is adjudged as an insolvent, or

(c) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer without the approval of the Authority, or

(d) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any rule or any regulation or order made or, any direction

issued thereunder, or

(e) if the Authority has reason to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular court of law, or

(f) if the insurer carries on any business other than insurance business or any prescribed business, or

(g) if the insurer makes a default in complying with any direction issued or order made, as the case may be, by the Authority under the Insurance Regulatory and Development Authority Act, 1999, or

41 of 1999.

(h) if the insurer makes a default in complying with, or acts in contravention of, any requirement of the Companies Act, 2013 or the General Insurance Business (Nationalisation) Act, 1972 or the Foreign Exchange Management Act, 1999 or the Prevention of Money Laundering Act, 2002, or

18 of 2013.
57 of 1972.
42 of 1999.
15 of 2002.

(i) if the insurer fails to pay the annual fee required under section 3A, or

(j) if the insurer is convicted for an offence under any law for the time being in force, or

(k) if the insurer being a co-operative society set up under the relevant State laws or, as the case may be, the Multi-State Co-operative Societies Act, 2002, contravenes the provisions of law as may be applicable to the insurer.

39 of 2002.

(5) When the Authority suspends or cancels any registration under clause (a), clause (d), clause (e), clause (f), clause (g) or clause (i) of sub-section (4), it shall give notice in writing to the insurer of its decision, and the decision shall take effect on such date as it may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.

(5A) When the Authority suspends or cancels any registration under clause (b), (c), (j) or (k) of sub-section (4), the suspension or cancellation, as the case may be, shall take effect on the date on which notice of the order of suspension or cancellation is served on the insurer."

(vi) for sub-section (5C), the following sub-section shall be substituted, namely:—

“(5C) Where a registration is suspended or cancelled under clause (a), clause (d), clause (e), clause (f), clause (g) or clause (i) of sub-section (4), the Authority may at its discretion revive the registration, if the insurer within six months from the date on which the suspension or cancellation took effect complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities or has had an application under sub-section (4) of section 3A accepted, or satisfies the Authority that no claim upon him such as is referred to in clause (e) of sub-section (4) remains unpaid or that he has complied with any requirement of this Act or the Insurance Regulatory and Development Authority Act, 1999, or of any rule or any regulation, or any order made thereunder or any direction issued under those Acts, or that he has ceased to carry on any business other than insurance business or any prescribed business, as the case may be, and complies with any directions which may be given to him by the Authority.”.

41 of 1999.

7. For section 3A of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section
3A.

“3A. (1) An insurer who has been granted a certificate of registration under section 3 shall pay such annual fee to the Authority in such manner as may be specified by the regulations.

Payment of
annual fee by
insurer.

(2) Any failure to deposit the annual fee shall render the certificate of registration liable to be cancelled.”.

8. For section 4 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 4.

“4. The insurer shall pay or undertake to pay on any policy of life insurance or a group policy issued, a minimum annuity and other benefits as may be determined by regulations excluding any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid-up policy of any value or payment of surrender value of any amount.”.

Minimum
limits for
annuities and
other benefits
secured by
policies of life
insurance.

9. In section 5 of the Insurance Act,—

Amendment
of section 5.

(i) in sub-section (2), both the provisos shall be omitted;

(ii) sub-section (3) shall be omitted.

10. For section 6 of the Insurance Act, the following section shall be substituted, namely :—

Substitution
of new section
for section 6.

“6. (1) No insurer not being an insurer as defined in sub-clause (d) of clause (9) of section 2, carrying on the business of life insurance, general insurance, health insurance or re-insurance in India or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall be registered unless he has,—

Requirement
as to capital.

41 of 1999.

(i) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on the business of life insurance or general insurance; or

(ii) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on exclusively the business of health insurance; or

(iii) a paid-up equity capital of rupees two hundred crore, in case of a person carrying on exclusively the business as a re-insurer:

18 of 2013.
15 of 1992.

"Provided that the insurer, may enhance the paid up equity capital, as provided in this section in accordance with the provisions of the Companies Act, 2013, the Securities Exchange Board of India Act, 1992 and the rules, regulations or directions issued thereunder or any other law for the time being in force:

Provided further that in determining the paid-up equity capital, any preliminary expenses incurred in the formation and registration of any insurer as may be specified by the regulations made under this Act, shall be excluded."

(2) No insurer, as defined in sub-clause (d) of clause (9) of section 2, shall be registered unless he has net owned funds of not less than rupees five thousand crore."

11. In section 6A of the Insurance Act,—

Amendment
of section 6A.

(i) for sub-section (1), the following sub-section shall be

substituted, namely:—

"(1) No public company limited by shares having its registered office in India, shall carry on life insurance business or general insurance business or health insurance business or re-insurance business, unless it satisfies the following conditions, namely:—

(i) that the capital of the company shall consist of equity shares each having a single face value and such other form of capital, as may be specified by the regulations;

(ii) that the voting rights of shareholders are restricted to equity shares;

(iii) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid-up amount is the same for all shares, whether existing or new;

Provided that the conditions specified in this sub-section shall not apply to a public company which has, before the commencement of the Insurance (Amendment) Act, 1950, issued any shares other than ordinary shares each of which has a single face value or any shares, the paid-up amount whereof is not the same for all of them for a period of three years from such commencement.”;

(ii) in sub-section (2), after the words "paid-up amount of the", the word "equity" shall be inserted;

(iii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) A public company as aforesaid which carries on life insurance business, general and health insurance business and re-insurance business—

(a) shall, in addition to the register of members maintained under the Companies Act, 2013, maintain a register of shares in which the name, occupation and address of the beneficial owner of each share shall be entered including any change of beneficial owner declared to it within fourteen days from the receipt of

47 of 1950.

18 of 2013.

such declaration;

(b) shall not register any transfer of its shares—

18 of 2013.

(i) unless, in addition to compliance being made with the provisions of section 56 of the Companies Act, 2013, the transferee furnishes a declaration in the prescribed form as to whether he proposes to hold the shares for his own benefit or as a nominee, whether jointly or severally, on behalf of others and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each;

(ii) where, after the transfer, the total paid-up holding of the transferee in the shares of the company is likely to exceed five per cent. of its paid-up capital unless the previous approval of the Authority has been obtained to the transfer;

(iii) where, the nominal value of the shares intended to be transferred by any individual, firm, group, constituents of a group, or body corporate under the same management, jointly or severally exceeds one per cent. of the paid-up equity capital of the insurer, unless the previous approval of the Authority has been obtained for the transfer.

12 of 2003.

Explanation.—For the purposes of this sub-clause, the expressions "group" and "same management" shall have the meanings respectively assigned to them in the Competition Act, 2002."

(iv) sub-sections (3), (6), (7), (8), (9) and (10) shall be omitted;

(v) in sub-section (11), the words, brackets and figures "except those of sub-sections (7), (8) and (9)" shall be omitted;

(vi) in sub-section (11), clause (ii) shall be omitted; and

(vii) in the *Explanation*, in sub-clause (c) of clause (ii), the words "managing agent" shall be omitted.

12. Section 6AA of the Insurance Act shall be omitted.

Omission of
section 6AA.

13. In section 6B of the Insurance Act,—

Amendment
of section 6B.

(i) in sub-section (1),—

(a) for the words “life insurance business”, the words “life or general or health insurance or re-insurance business” shall be substituted; and

(b) for the words “Central Government”, the word “Authority” shall be substituted;

(ii) in sub-sections (2) and (3), for the words “High Court”, the words “the Securities Appellate Tribunal” shall be substituted.”.

(iii) sub-section (4) shall be omitted.

14. Sections 6C, 7, 8 and 9 of the Insurance Act shall be omitted.

Omission of
sections 6C, 7,
8 and 9.

15. In section 10 of the Insurance Act,—

Amendment
of section 10.

(i) in sub-section (1), for the words “prescribed in this behalf”, the words “specified by the regulations” shall be substituted;

(ii) in sub-section (2),—

(a) the words, brackets and figures, “after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946”, shall be omitted;

(b) the words “under the law of the insurer’s country” occurring at the end, shall be omitted.

(iii) after sub-section (2A), the following sub-section shall be inserted, namely:—

“(2AA) Where the insurer carries on the business of insurance, all receipts due in respect of each sub-clause of such insurance business shall be carried to and shall form a separate fund, the assets of which shall be kept separate and distinct from other assets of the insurer and every insurer shall submit to the Authority the necessary details of such funds as may be required by the Authority from time to time and such funds shall not be applied directly or indirectly save as expressly permitted under this Act or

regulations made thereunder.”.

16. For section 11 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 11.

“11. (1) Every insurer, on or after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, in respect of insurance business transacted by him and in respect of his shareholders’ funds, shall, at the expiration of each financial year, prepare with reference to that year, balance-sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations as may be specified.

Accounts and
balance-sheet.

(2) Every insurer shall keep separate accounts relating to funds of shareholders and policy-holders.

18 of 2013.

(3) Unless the insurer is a company as defined in clause (20) of section 2 of the Companies Act, 2013, the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman, if any, and two directors and the principal officer of the company, or in case of an insurance cooperative society by the person in-charge of the society and shall be accompanied by a statement containing the names, descriptions and occupations of, and the directorships held by, the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report on the affairs of the business during that period.”.

17. For section 12 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 12.

18 of 2013.

“12. The balance-sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in respect of all insurance business transacted by him, shall, unless they are subject to audit under the Companies Act, 2013, be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 147 of the Companies Act, 2013.”.

Audit.

18 of 2013.

18. In section 13 of the Insurance Act,—

Amendment
of section 13.

(i) for sub-section (1), the following sub-section shall be

substituted, namely:—

“(1) Every insurer carrying on life insurance business shall, once at least every year cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the regulations:

Provided that the Authority may, having regard to the circumstances of any particular insurer, allow him to have the investigation made as at a date not later than two years from the date as at which the previous investigation was made:

Provided further that every insurer, on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall cause an abstract of the report of the actuary to be made in such manner as may be specified by the regulations.”;

41 of 1999.

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) There shall be appended to every such abstract a statement prepared in such form and in such manner as may be specified by the regulations:

Provided that, if the investigation referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every three years.”;

(iii) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) The provisions of this section relating to the life insurance business shall apply also to any such sub-class of insurance business included in the class “Miscellaneous Insurance” and the Authority may authorise such modifications and variations of regulations as may be necessary to facilitate their application to any such sub-class of insurance business:

Provided that, if the Authority is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so

small as to render periodic investigation and valuation unnecessary, it may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business.”.

19. For section 14 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 14.

“14(1). Every insurer, in respect of all business transacted by him, shall maintain—

Record of
policies and
claims.

(a) a record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice,

(b) a record of claims, every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds thereof; and

(c) a record of policies and claims in accordance with clauses (a) and (b) may be maintained in any such form, including electronic mode, as may be specified by the regulations made under this Act.

(2) Every insurer shall, in respect of all business transacted by him, endeavour to issue policies above a specified threshold in terms of sum assured and premium in electronic form, in the manner and form to be specified by the regulations made under this Act.”.

20. For section 15 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 15.

“15. (1) The audited accounts and statements referred to in section 11 or subsection (5) of section 13 and the abstract and statement referred to in section 13 shall be printed, and four copies thereof shall be furnished as returns to the Authority within six months from the end of the period to which they refer.

Submission of
returns.

(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company

has a managing director by that managing director and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.”

21. Section 16 of the Insurance Act shall be omitted.

Omission of section 16.

22. Sections 17 and 17A of the Insurance Act shall be omitted.

Omission of sections 17 and 17A.

23. In section 20 of the Insurance Act,—

Amendment of section 20.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every return furnished to the Authority or certified copy thereof shall be kept by the Authority and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of such fee as may be specified by the regulations.”;

(ii) in sub-section (2), the words and figures “or section 16” shall be omitted;

(iii) in sub-section (3), for the words “one rupee”, the words “such fee as may be specified by the regulations” shall be substituted.

24. In section 21 of the Insurance Act,—

Amendment of section 21.

(i) in clause (d) of sub-section (1), the words and figures “or section 16” shall be omitted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Securities Appellate Tribunal may, on the application of an insurer and after hearing the Authority, cancel any order made by the Authority under clause (d) of sub-section (1) or may direct the acceptance of such a return which the Authority has declined to accept, if the insurer satisfies the Tribunal that the action of the Authority was in the circumstances unreasonable:

Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the date when the Authority made the

order or declined to accept the return.”.

25. In section 22 of the Insurance Act,—

Amendment
of section 22.

(i) in sub-section (1), the words, brackets, letter and figures “or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16” shall be omitted;

(ii) in sub-section (2), the words, brackets and figures “or, as the case may be, of sub-section (2) of section 16” shall be omitted.

26. For sections 27, 27A, 27B, 27C and 27D of the Insurance Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 27,
27A, 27B,
27C and 27D.

“27. (1) Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of —

Investment of
assets.

(a) the amount of his liabilities to holders of life insurance policies in India on account of matured claims, and

(b) the amount required to meet the liability on policies of life insurance maturing for payment in India, less—

(i) the amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and

(ii) any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability in the following manner, namely,—

(a) twenty-five per cent. of the said sum in Government securities, a further sum equal to not less than twenty-five per cent. of the said sum in Government securities or other approved securities; and

(b) the balance in any of the approved investments,

as may be specified in the regulations subject to the limitations, conditions and restrictions specified therein.

(2) In the case of an insurer carrying on general insurance business, twenty per cent. of the assets in Government Securities, a further sum equal to not less than ten per cent. of the assets in Government Securities or other approved securities and the balance in any other investment in accordance with the regulations of the Authority and subject to such limitations, conditions and restrictions as may be specified by the Authority in this regard.

Explanation— In this section, the term “assets” means all the assets of insurer at their carrying value but does not include any assets specifically held against any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or miscellaneous expenditure or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

(3) For the purposes of sub-sections (1) and (2), any specified assets shall, subject to such conditions, if any, as may be specified, be deemed to be assets invested or kept invested in approved investments specified by regulations.

(4) In computing the assets referred to in sub-sections (1) and (2), any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurers in India with reference to that currency, to the extent of such excess, shall not be taken into account:

Provided that nothing contained in this sub-section shall affect the operation of sub-section (2):

Provided further that the Authority may, either generally or in any particular case, direct that any investment shall, subject to such conditions as may be imposed, be taken into account, in such manner as may be specified in computing the assets referred to in subsections (1) and (2) and where any direction has been issued under this proviso, copies thereof shall be laid before each house of Parliament as soon as may be after it is issued.

(5) Where an insurer has accepted re-insurance in respect

of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded reinsurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

(6) The Government securities and other approved securities in which assets are under sub-section (1) or sub-section (2) to be invested and kept invested shall be held by the insurer free of any encumbrance, charge, hypothecation or lien.

(7) The assets required by this section to be held invested by an insurer incorporated or domiciled outside India shall, except to the extent of any part thereof which consists of foreign assets held outside India, be held in India and all such assets shall be held in trust for the discharge of the liabilities of the nature referred to in sub-section (1) and shall be vested in trustees resident in India and approved by the Authority, and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Authority and shall define the manner in which alone the subject-matter of the trust shall be dealt with.

Explanation.—This sub-section shall apply to an insurer incorporated in India whose share capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of members domiciled elsewhere than in India.

27A. (1) No insurer carrying on life insurance business shall invest or keep invested any part of his controlled fund and no insurer carrying on general business shall invest or keep invested any part of his assets otherwise than in any of the approved investments as may be specified by the regulations subject to such limitations, conditions and restrictions therein.

Further provisions regarding investments.

(2) Notwithstanding anything contained in sub-section (1) or sub-section (2) of section 27, an insurer may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his controlled fund or assets otherwise than in an approved investment, if—

(i) after such investment, the total amounts of all such

investments of the insurer do not exceed fifteen per cent. of the sum referred to in sub-section (1) of section 27 or fifteen per cent. of the assets referred to in sub-section (2) as the case may be;

(ii) the investment is made, or, in the case of any investment already made, the continuance of such investment is with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors then in India, and all such investments, including investments in which any director is interested, are reported without delay to the Authority with full details of the investments and the extent of the director's interest in any such investment.

(3) An insurer shall not out of his controlled fund or assets as referred to in subsection (2) of section 27,—

(a) invest in the shares of any one banking company,
or

(b) invest in the shares or debentures of any one company,

more than the percentage specified by the regulations.

(4) An insurer shall not out of his controlled fund or assets as referred to in sub-section (2) of section 27 invest or keep invested in the shares or debentures of any private limited company.

(5) All assets forming the controlled fund or assets as referred to in sub-section (2), of section 27, not being Government securities or other approved securities in which assets are to be invested or held invested in accordance with this section, shall (except for a part thereof not exceeding one-tenth of the controlled fund or assets as referred to in sub-section (2) thereof in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment), be held free of any encumbrance, charge, hypothecation or lien.

(6) If at any time the Authority considers any one or more of the investments of an insurer to be unsuitable or undesirable, the Authority may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with

the direction within such time as may be specified in this behalf by the Authority.

(7) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central Act, or Act of a State legislature.

Explanation.—In this section “controlled fund” means—

(a) in the case of any insurer carrying on life insurance business—

(i) all his funds, if he carries on no other class of insurance business;

(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also.

Explanation.—For the purposes of sub-clauses (i) and (ii), the fund does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion, as the case may be, is regulated by the law in force of any country outside India or it would not be in the interest of the insurer to apply the provisions of this section.”;

(b) in the case of any other insurer carrying on life insurance business—

(i) all his funds in India, if he carries on no other class of insurance business;

(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also; but does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

27B. (1) All assets of an insurer carrying on general insurance business shall, subject to such conditions, if any, as

Provisions
regarding
investments of

may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in section 27.

assets of
insurer
carrying
general
insurance
business.

(2) All assets shall (except for a part thereof not exceeding one-tenth of the total assets in value which may subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies) be held free of any encumbrance, charge, hypothecation or lien.

(3) Without prejudice to the powers conferred on the Authority by sub-section (5) of section 27A nothing contained in this section shall be deemed to require any insurer to realise any investment made in conformity with the provisions of sub-section (1) of section 27 after the commencement of the Insurance (Amendment) Act, 1968, which, after the making thereof, has ceased to be an approved investment within the meaning of this section.

62 of 1968.

27C. An insurer may invest not more than five per cent. in aggregate of his controlled fund or assets as referred to in sub-section (2) of section 27 in the companies belonging to the promoters, subject to such conditions as may be specified by the regulations.

Investment by
insurer in
certain cases.

27D. (1) Without prejudice to anything contained in this section, the Authority may, in the interests of the policy-holders, specify by the regulations, the time, manner and other conditions of investment of assets to be held by an insurer for the purposes of this Act.

Manner and
condition of
investment.

(2) The Authority may give specific directions for the time, manner and other conditions subject to which the funds of policy-holders shall be invested in the infrastructure and social sector as may be specified by the regulations and such regulations shall apply uniformly to all the insurers carrying on the business of life insurance, general insurance, or health insurance or re-insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999.

41 of 1999.

(3) The Authority may, after taking into account the nature of business and to protect the interests of the policy-holders, issue to an insurer the directions relating to the time, manner and other conditions of investment of assets to be held by him:

Provided that no direction under this sub-section shall be

issued unless the insurer concerned has been given a reasonable opportunity of being heard.

27E. No insurer shall directly or indirectly invest outside India the funds of the policy-holders."

Prohibition for investment of funds outside India.

27. For section 28, section 28A and section 28B of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 28, section 28A and section 28B.

"28. Every insurer shall submit to the Authority returns giving details of investments made, in such form, time and manner including its authentication as may be specified by the regulations."

Statement and return of investment of assets.

28. For section 29 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 29.

"29. (1) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life policies issued by him within their surrender value, to any director, manager, actuary, auditor or officer of the insurer, if a company or to any other company or firm in which any such director, manager, actuary or officer holds the position of a director, manager, actuary, officer or partner:

Prohibition of loans.

Provided that nothing contained in this sub-section shall apply to such loans, made by an insurer to a banking company, as may be specified by the Authority:

Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loan or advance is a subsidiary company if the previous approval of the Authority is obtained for such loan or advance.

18 of 2013.

(2) The provisions of section 185 of the Companies Act, 2013 shall not apply to a loan granted to a director of an insurer being a company, if the loan is one granted on the security of a policy on which the insurer bears the risk and the policy was issued to the director on his own life, and the loan is within the surrender value of the policy.

(3) Subject to the provisions of sub-section (1), no insurer shall grant —

(a) any loans or temporary advances either on hypothecation of property or on personal security or otherwise, except such loans as may be specified by the regulations including the loans sanctioned as part of their salary package to the fulltime employees of the insurer as per the scheme duly approved by its Board of Directors;

(b) temporary advances to any insurance agent to facilitate the carrying out of his functions as such except in cases where such advances do not exceed in the aggregate the renewal commission earned by him during the year immediately preceding.

(4) Where any event occurs given rise to circumstances, the existence of which at the time of grant of any subsisting loan or advance would have made such grant a contravention of this section, such loan or advance shall, notwithstanding anything in any contract to the contrary, be repaid within three months from the occurrence of such event.

(5) In case of default in complying with the provisions of sub-section (4), the director, manager, auditor, actuary, officer or insurance agent concerned shall, without prejudice to any other penalty which he may incur, cease to hold office under, or to act for, the insurer granting the loan on the expiry of three months.”

29. For section 30 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 30.

“30. If by reason of a contravention of any of the provisions of section 27, 27A, 27B, 27C, 27D or section 29, any loss is sustained by the insurer or by the policyholders, every director, manager or officer who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be jointly and severally liable to make good the amount of such loss.”

Liability of
directors, etc.,
for loss due to
contravention
of section 27,
27A, 27B,
27C, 27D or
section 29.

30. In section 31 of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 31.

“(1) None of the assets in India of any insurer shall, except in so far as assets are required to be vested in trustees under

sub-section (7) of section 27, be kept otherwise than in the name of a public officer approved by the Authority, or in the corporate name of the undertaking, if a company or as the case may be an insurance co-operative society.”.

31. In section 31A of the Insurance Act,—

Amendment
of section
31A.

(a) in sub-section (1), in clause (c) —

(I) for sub-clauses (i) and (ii) to the proviso, the following sub-clause shall be substituted, namely:—

“(i) the payment of commission to an insurance agent, in respect of insurance business procured by or through him;”;

(II) clause (iii) to the proviso shall be omitted;

7 of 1913.

(b) in sub-section (3), for the words, figures and letter “or in section 86B of the Indian Companies Act, 1913”, the words “or in any other law for the time being in force” shall be substituted.

32. For section 31B of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section
31B.

“31B. No insurer shall in respect of insurance business transacted by him, shall pay to any person by way of remuneration, whether by way of commission or otherwise in excess of such sum as may be specified by the regulations.”.

Power to
restrict
payment of
excessive
remuneration.

33. Section 32 of the Insurance Act shall be omitted.

Omission of
section 32.
Amendment
of section
32A.

34. In section 32A of the Insurance Act,—

(i) in sub-section (1), the words, brackets, letter and figures “specified in sub-clause (b) of clause (9) of section 2 and,” shall be omitted;

(ii) sub-sections (2) and (3) shall be omitted.

35. In section 32B of the Insurance Act, for the words “rural or social sector”, the words “rural and social sectors” shall be substituted.

Amendment
of section
32B.

36. After section 32C of the Insurance Act, the following section shall be inserted, namely:—

Insertion of
new section
32D.

"32D. Every insurer carrying on general insurance business shall, after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, underwrite such minimum percentage of insurance business in third party risks of motor vehicles as may be specified by the regulations:

Obligation of insurer in respect of insurance business in third party risks of motor vehicles.

Provided that the Authority may, by regulations, exempt any insurer who is primarily engaged in the business of health, re-insurance, agriculture, export credit guarantee, from the application of this section."

37. For section 33 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 33.

"33. (1) The Authority may, at any time, if it considers expedient to do so by order in writing, direct any person (hereafter in this section referred to as "Investigating Officer") specified in the order to investigate the affairs of any insurer or intermediary or insurance intermediary, as the case may be, and to report to the Authority on any investigation made by such Investigating Officer:

Power of investigation and inspection by Authority.

Provided that the Investigating Officer may, wherever necessary, employ any auditor or actuary or both for the purpose of assisting him in any investigation under this section.

(2) Notwithstanding anything to the contrary contained in section 210 of the Companies Act, 2013, the Investigating Officer may, at any time, and shall, on being directed so to do by the Authority, cause an inspection to be made by one or more of his officers of the books of account of any insurer or intermediary or insurance intermediary, as the case may be, and the Investigating Officer shall supply to the insurer or intermediary or insurance intermediary, as the case may be, a copy of the report on such inspection.

(3) It shall be the duty of every manager, managing director or other officer of the insurer including a service provider, contractor of an insurer where services are outsourced by the insurer, or intermediary or insurance intermediary, as the case may be, to produce before the Investigating Officer directed to make the investigation under sub-section (1), or inspection under sub-section (2), all such books of account, registers, other documents and the database in his custody or power and to furnish him with any statement and information relating to the affairs of the insurer or intermediary or insurance intermediary, as the case may be, as

the Investigating Officer may require of him within such time as the said Investigating Officer may specify.

(4) Any Investigating Officer, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath, any manager, managing director or other officer of the insurer including a service provider or contractor where the services are outsourced by the insurer or intermediary or insurance intermediary, as the case may be, in relation to his business.

(5) The Investigating Officer shall, if he has been directed by the Authority to cause an inspection to be made, make a report to the Authority on such inspection.

(6) On receipt of any report under sub-section (1) or sub-section (5), the Authority may, after giving such opportunity to the insurer or intermediary or insurance intermediary, as the case may be, to make a representation in connection with the report as, in the opinion of the Authority, seems reasonable, by order in writing, —

(a) require the insurer, to take such action in respect of any matter arising out of the report as the Authority may think fit; or

(b) cancel the registration of the insurer or intermediary or insurance intermediary, as the case may be; or

(c) direct any person to apply to the court for the winding up of the insurer or intermediary or insurance intermediary, as the case may be, if it is a company, whether the registration of the insurer or intermediary or insurance intermediary, as the case may be, has been cancelled under clause (b) or not.

(7) The Authority may by the regulations made by it specify the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by insurers or intermediary or insurance intermediary, as the case may be, in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Officer to discharge satisfactorily his functions under this section.

Explanation.—For the purposes of this section, expression

“insurer” shall include in the case of an insurer incorporated in India—

(a) all its subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and

(b) all its branches whether situated in India or outside India.

(8) Any insurer or intermediary or insurance intermediary aggrieved by any order made under this section may prefer an appeal to the Securities Appellate Tribunal.

(9) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer or intermediary or insurance intermediary, as the case may be, shall have priority over the debts due from the insurer and shall be recoverable as an arrear of land revenue.”.

38. In section 34B of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment
of section
34B.

“(4) If any person in respect of whom an order is made by the Authority under sub-section (1) or under the proviso to sub-section (2), contravenes the provisions of this section, he shall be liable to a penalty of one lakh rupees for each day during which such contravention continues or one crore rupees, whichever is less.”.

39. In section 34C of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section
34C.

“(1) If the Authority is of opinion that in the public interest or in the interest of an insurer or his policy-holders it is necessary so to do, it may, from time to time, by order in writing, appoint, in consultation with the Central Government with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the insurer:

Provided that the number of additional directors so appointed shall not, at any time, exceed five or one-third of the maximum strength fixed for the Board by the articles of association of the insurer, whichever is less.”.

40. Section 34G of the Insurance Act shall be omitted.

Omission of
section 34G.
Amendment
of section

41. In section 34H of the Insurance Act,—

(i) in sub-section (1), for the words “an officer authorised by the Authority”, the words “a Deputy Director or an equivalent officer” shall be substituted; 34H.

(ii) in sub-sections (7) and (8), for the words “Central Government”, the words “Securities Appellate Tribunal” shall be substituted.

42. In section 35 of the Insurance Act,—

Amendment
of section 35.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in any other law for the time being in force, no insurance business of an insurer shall be transferred to or amalgamated with the insurance business of any other insurer except in accordance with a scheme prepared under this section and approved by the Authority.”;

(ii) in sub-section (3), for clauses (b) and (c), the following clauses shall be substituted, namely :—

“(b) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in such forms may be specified by regulation;

(c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the regulations specified in this regard.”.

43. For section 36 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 36.

“36. When any application under sub-section (3) of section 35 is made to the Authority, the Authority shall cause, a notice of the application to be given to the holders of any kind of policy of insurer concerned along with statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and, after hearing the directors and considering the objections of the policy-holders and any other persons whom it considers entitled to be heard, may approve the arrangement, and shall make such consequential orders as

Sanction of
amalgamation
and transfer
by Authority.

are necessary to give effect to the arrangement.”.

44. In section 37A of the Insurance Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

Amendment
of section
37A.

“(4) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modification or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may notify in this behalf in the Official Gazette:

Provided that different dates may be specified for different provisions of the scheme.

(4A) Every policy-holder or shareholder or member of each of the insurers, before amalgamation, shall have the same interest in, or rights against the insurer resulting from amalgamation as he had in the company of which he was originally a policy-holder or shareholder or member:

Provided that where the interests or rights of any shareholder or member are less than his interest in, or rights against, the original insurer, he shall be entitled to compensation, which shall be assessed by the Authority in such manner as may be specified by the regulations.

(4B) The compensation so assessed shall be paid to the shareholder or member by the insurance company resulting from such amalgamation.

(4C) Any member or shareholder aggrieved by the assessment of compensation made by the Authority under sub-section (4A) may within thirty days from the publication of such assessment prefer an appeal to the Securities Appellate Tribunal.”.

45. For sections 38, 39 and 40 of the Insurance Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 38,
39 and 40.

“38. (1) A transfer or assignment of a policy of insurance, wholly or in part, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at

Assignment
and transfer of
insurance
policies.

least one witness, specifically setting forth the fact of transfer or assignment and the reasons thereof, the antecedents of the assignee and the terms on which the assignment is made.

(2) An insurer may, accept the transfer or assignment, or decline to act upon any endorsement made under sub-section (1), where it has sufficient reason to believe that such transfer or assignment is not bonafide or is not in the interest of the policy-holder or in public interest or is for the purpose of trading of insurance policy.

(3) The insurer shall, before refusing to act upon the endorsement, record in writing the reasons for such refusal and communicate the same to the policy-holder not later than thirty days from the date of the policy-holder giving notice of such transfer or assignment.

(4) Any person aggrieved by the decision of an insurer to decline to act upon such transfer or assignment may within a period of thirty days from the date of receipt of the communication from the insurer containing reasons for such refusal, prefer a claim to the Authority.

(5) Subject to the provisions in sub-section (2), the transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but except, where the transfer or assignment is in favour of the insurer, shall not be operative as against an insurer, and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment and either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents have been delivered to the insurer:

Provided that where the insurer maintains one or more places of business in India, such notice shall be delivered only at the place where the policy is being serviced.

(6) The date on which the notice referred to in sub-section (5) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (5) are delivered:

Provided that if any dispute as to priority of payment arises as between assignees, the dispute shall be referred to the Authority.

(7) Upon the receipt of the notice referred to in sub-section (5), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of such fee as may be specified by the regulations, grant a written acknowledgement of the receipt of such notice; and any such acknowledgement shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(8) Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (5), recognise the transferee or assignee named in the notice as the absolute transferee or assignee entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy, obtain a loan under the policy or surrender the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

Explanation.— Except where the endorsement referred to in sub-section (1) expressly indicates that the assignment or transfer is conditional in terms of subsection (10) hereunder, every assignment or transfer shall be deemed to be an absolute assignment or transfer and the assignee or transferee, as the case may be, shall be deemed to be the absolute assignee or transferee respectively.

(9) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of the Insurance Laws (Amendment) Ordinance, 2014 shall not be affected by the provisions of this section.

(10) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made upon the condition that —

(a) the proceeds under the policy shall become payable to the policyholder or the nominee or nominees in the event of either the assignee or transferee predeceasing the insured; or

(b) the insured surviving the term of the policy, shall be valid:

Provided that a conditional assignee shall not be entitled to obtain a loan on the policy or surrender a policy.

(11) In the case of the partial assignment or transfer of a policy of insurance under sub-section (1), the liability of the insurer shall be limited to the amount secured by partial assignment or transfer and such policy-holder shall not be entitled to further assign or transfer the residual amount payable under the same policy.

39. (1) The holder of a policy of life insurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death:

Nomination
by policy-
holder.

Provided that, where any nominee is a minor, it shall be lawful for the policyholder to appoint any person in the manner laid down by the insurer, to receive the money secured by the policy in the event of his death during the minority of the nominee.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be, but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made bona fide by him to a nominee mentioned in the text of the policy or registered in records of the insurer.

(3) The insurer shall furnish to the policyholder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge such fee as may be specified by regulations for registering such cancellation or change.

(4) A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination:

Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its re-assignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy:

Provided further that the transfer or assignment of a policy, whether wholly or in part, in consideration of a loan advanced by the transferee or assignee to the policyholder, shall not cancel the nomination but shall affect the rights of the nominee only to the extent of the interest of the transferee or assignee, as the case may be, in the policy:

Provided also that the nomination, which has been automatically cancelled consequent upon the transfer or assignment, the same nomination shall stand automatically revived when the policy is reassigned by the assignee or retransferred by the transferee in favour of the policy-holder on repayment of loan other than on a security of policy to the insurer.

(5) Where the policy matures for payment during the lifetime of the person whose life is insured or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policyholder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(6) Where the nominee or if there are more nominees than one, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

(7) Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to

him or them under sub-section (6) unless it is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

(8) Subject as aforesaid, where the nominee, or if there are more nominees than one, a nominee or nominees, to whom sub-section (7) applies, die after the person whose life is insured but before the amount secured by the policy is paid, the amount secured by the policy, or so much of the amount secured by the policy as represents the share of the nominee or nominees so dying (as the case may be), shall be payable to the heirs or legal representatives of the nominee or nominees or the holder of a succession certificate, as the case may be, and they shall be beneficially entitled to such amount.

(9) Nothing in sub-sections (7) and (8) shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of life insurance.

(10) The provisions of sub-sections (7) and (8) shall apply to all policies of life insurance maturing for payment after the commencement of the Insurance Laws (Amendment) Ordinance, 2014.

(11) Where a policy-holder dies after the maturity of the policy but the proceeds and benefit of his policy has not been made to him because of his death, in such a case, his nominee shall be entitled to the proceeds and benefit of his policy.

(12) The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874, applies or has at any time applied:

3 of 1874.

Provided that where a nomination made whether before or after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy.

40. (1) No person shall, pay or contract to pay any remuneration or reward, whether by way of commission or otherwise for soliciting or procuring insurance business in

Prohibition of
payment by
way of
commission

India to any person except an insurance agent or an intermediary or insurance intermediary in such manner as may be specified by the regulations. or otherwise for procuring business.

(2) No insurance agent or intermediary or insurance intermediary shall receive or contract to receive commission or remuneration in any form in respect of policies issued in India, by an insurer in any form in respect of policies issued in India, by an insurer except in accordance with the regulations specified in this regard:

Provided that the Authority, while making regulations under sub-sections (1) and (2), shall take into consideration the nature and tenure of the policy and in particular the interest of the agents and other intermediaries concerned.

(3) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-sections or the regulations framed in this regard, by an insurer, any insurance agent or intermediary or insurance intermediary who contravenes the said provisions shall be liable to a penalty which may extend to one lakh rupees.”.

46. Section 40A of the Insurance Act shall be omitted.

Omission of section 40A.

47. For sections 40B and 40C of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 40B and 40C.

“40B. No insurer shall, in respect of insurance business transacted by him in India, spend as expenses of management in any financial year any amount exceeding the amount as may be specified by the regulations made under this Act;

Limitation of expenses of management in life insurance business.

40C. Every insurer transacting insurance business in India shall furnish to the Authority, the details of expenses of management in such manner and form as may be specified by the regulations made under this Act.”.

Limitation of expenses of management in general, health insurance and re-insurance business.

48. In section 41 of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 41.

“(2) Any person making default in complying with the

provisions of this section shall be liable for a penalty which may extend to ten lakh rupees.”.

49. For section 42 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 42.

"42.(1) An insurer may appoint any person to act as insurance agent for the purpose of soliciting and procuring insurance business:

Appointment
of insurance
agents.

Provided that such person does not suffer from any of the disqualifications mentioned in sub-section (3).

(2) No person shall act as an insurance agent for more than one life insurer, one general insurer, one health insurer and one of each of the other mono-line insurers:

Provided that the Authority shall, while framing regulations, ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers for whom he may be an agent.

(3) The disqualifications referred to in the proviso to sub-section (1) shall be the following:—

(a) that the person is a minor;

(b) that he is found to be of unsound mind by a court of competent jurisdiction;

(c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a court of competent jurisdiction:

Provided that where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;

(d) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurer or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or

misrepresentation against an insurer or insured;

(e) that in the case of an individual, who does not possess the requisite qualifications or practical training or passed the examination, as may be specified by the regulations;

(f) that in the case of a company or firm making, a director or a partner or one or more of its officers or other employees so designated by it and in the case of any other person the chief executive, by whatever name called, or one or more of his employees designated by him, do not possess the requisite qualifications or practical training and have not passed such an examination as required under clauses (e) and (g);

(g) that he has not passed such examination as may be specified by the regulations;

(h) that he has violated the code of conduct specified by the regulations.

(4) Any person who acts as an insurance agent in contravention of the provision of this Act, shall be liable to a penalty which may extend to ten thousand rupees and any insurer or any person acting on behalf of an insurer, who appoints any person as an insurance agent not permitted to act as such or transacts any insurance business in India through any such person shall be liable to penalty which may extend to one crore rupees.

(5) The insurer shall be responsible for all the acts and omissions of its agents including violation of code of conduct specified under clause (h) of sub-section (3) and liable to a penalty which may extend to one crore rupees.”

50. For sections 42A, 42B and 42C of the Insurance Act, the following section shall be substituted, namely:-

Substitution
of new section
for section
42A, 42B and
42C.

‘42A. (1) No insurer shall, on or after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, appoint any principal agent, chief agent, and special agent and transact any insurance business in India through them.

Prohibition of
insurance
business
through
principal
agent, special
agent and
multilevel
marketing.

(2) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance policy through

multilevel marketing scheme.

(3) The Authority may, through an officer authorised in this behalf, make a complaint to the appropriate police authorities relating to the entity or persons involved in the multilevel marketing scheme.

Explanation.—For the purpose of this section “multilevel marketing scheme” means any scheme or programme or arrangement or plan (by whatever name called) for the purpose of soliciting and procuring insurance business through persons not authorised for the said purpose with or without consideration of whole or part of commission or remuneration earned through such solicitation and procurement and includes enrolment of persons into a multi level chain for the said purpose either directly or indirectly.’.

51. In section 42D of the Insurance Act,—

Amendment
of section
42D.

(i) for the words “licence” and “licence issued”, wherever they occur, the words “registration” and “registration made”, shall respectively be substituted;

(ii) in sub-section (1), in clause (a) of the proviso, for the word, brackets and figure “sub-section (4)”, the word, brackets and figure “sub-section (3)” shall be substituted;

(iii) in sub-section (3),—

(a) after the words “directors or partners” the words “or one or more of its officers or other employees so designated by it and in the case of any other person, the chief executive by whatever name called, or one or more of his employees designated by him” shall be inserted;

(b) for the words, brackets, letters and figures “in clauses (b), (c), (d), (e) and (f) of sub-section (4) of section 42”, the words, brackets, letters and figures “in clauses (b), (c), (d), (c) and (g) of sub-section (3) of section 42” shall be substituted;

(iv) for sub-sections (8) and (9), the following sub-sections, shall be substituted, namely:—

“(8) Any person who acts as an intermediary or an insurance intermediary without being registered under this section to act as such, shall be liable to a penalty which may extend to ten lakh rupees and any person who appoints as an intermediary or an insurance intermediary or any person not registered to act as such or transacts any insurance business in India through any

such person, shall be liable to a penalty which may extend to one crore rupees.

(9) Where the person contravening sub-section (8) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be liable to a penalty which may extend to ten lakh rupees."

52. For section 42E of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 42E.

"42E. Without prejudice to the provisions contained in this Act, the Authority may, by regulations made in this behalf, specify the requirements of capital, form of business and other conditions, to act as an intermediary or an insurance intermediary."

Condition for intermediary or insurance intermediary.

53. For section 43 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 43.

"43. (1) Every insurer and every person who acting on behalf of an insurer employs insurance agents shall maintain a record showing the name and address of every insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.

Record of insurance agents.

(2) The record prepared by the insurer under sub-section (1), shall be maintained as long as the insurance agent is in service and for a period of five years after the cessation of appointment".

54. Section 44 of the Insurance Act shall be omitted.

Omission of section 44.

55. For sections 44A and 45 of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 44A and 45.

"44A. For the purposes of ensuring compliance with the provisions of sections 40, 40B and 40C, the Authority may, by notice—

Power to call for information.

(a) require from an insurer such information, certified if so required by an auditor or actuary, as he may consider

necessary;

(b) require an insurer to submit for his examination at the principal place of business of the insurer in India, any book of account, register or other document, or to supply any statement which may be specified in the notice;

(c) examine any officer of an insurer on oath, in relation to any such information, book, register, document or statement and the insurer, shall comply with any such requirement within such time as may be specified in the notice.

45. (1) No policy of life insurance shall be called in question on any ground whatsoever after the expiry of three years from the date of the policy, i.e., from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later.

Policy not be called in question on ground of misstatement after three years.

(2) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground of fraud:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision is based.

Explanation I—For the purposes of this sub-section, the expression “fraud” means any of the following acts committed by the insured or by his agent, with the intent to deceive the insurer or to induce the insurer to issue a life insurance policy:

(a) the suggestion, as a fact of that which is not true and which the insured does not believe to be true;

(b) the active concealment of a fact by the insured having knowledge or belief of the fact;

(c) any other act fitted to deceive; and

(d) any such act or omission as the law specially declares to be fraudulent.

Explanation II.—Mere silence as to facts likely to affect the assessment of the risk by the insurer is not fraud, unless the circumstances of the case are such that regard being had to them, it is the duty of the insured or his agent, keeping silence to speak, or unless his silence is, in itself, equivalent to speak.

(3) Notwithstanding anything contained in sub-section (2), no insurer shall repudiate a life insurance policy on the ground of fraud if the insured can prove that the mis-statement of or suppression of a material fact was true to the best of his knowledge and belief or that there was no deliberate intention to suppress the fact or that such mis-statement of or suppression of a material fact are within the knowledge of the insurer:

Provided that in case of fraud, the onus of disproving lies upon the beneficiaries, in case the policyholder is not alive.

Explanation.—A person who solicits and negotiates a contract of insurance shall be deemed for the purpose of the formation of the contract, to be the agent of the insurer.

(4) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground that any statement of or suppression of a fact material to the expectancy of the life of the insured was incorrectly made in the proposal or other document on the basis of which the policy was issued or revived or rider issued:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision to repudiate the policy of life insurance is based:

Provided further that in case of repudiation of the policy on the ground of misstatement or suppression of a material fact, and not on the ground of fraud, the premiums collected on the policy till the date of repudiation shall be paid to the insured or the legal representatives or nominees or assignees of the insured within a period of ninety days from the date of such repudiation.

Explanation.—For the purposes of this sub-section, the

mis-statement of or suppression of fact shall not be considered material unless it has a direct bearing on the risk undertaken by the insurer, the onus is on the insurer to show that had the insurer been aware of the said fact no life insurance policy would have been issued to the insured.

(5) Nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.

56. Sections 47A and 48 of the Insurance Act shall be omitted.

Omission of sections 47A and 48.

57. For section 48A of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 48A.

"48A. No insurance agent or intermediary or insurance intermediary shall be eligible to be or remain a director in insurance company:

Insurance agent or intermediary or insurance intermediary not to be director in insurance company.

Provided that any director holding office at the commencement of the Insurance Laws (Amendment) Ordinance, 2014 shall not become ineligible to remain a director by reason of this section until the expiry of six months from the date of commencement of the said Ordinance:

Provided further that the Authority may permit an agent or intermediary or insurance intermediary to be on the Board of an insurance company subject to such conditions or restrictions as it may impose to protect the interest of policy-holders or to avoid conflict of interest."

58. In section 49 of the Insurance Act, in sub-section (1),—

Amendment of section 49.

(i) the words, brackets, letters and figures "being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2" shall be omitted;

(ii) the words and figures "or to the Central Government under section 11 of the Indian Life Insurance Companies Act, 1912" shall be omitted.

59. For sections 52 and 52A of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections 52 and 52A.
Prohibition of business on dividing principle.

"52. No insurer shall commence any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the result of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time-limits:

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise.

52A. (1) If at any time the Authority has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to be prejudicial to the interests of holders of life insurance policies, it may, after giving such opportunity to the insurer to be heard appoint an Administrator to manage the affairs of the insurer under the direction and control of the Authority.

When Administrator for management of insurance business may be appointed.

(2) The Administrator shall receive such remuneration as the Authority may direct and the Authority may at any time cancel the appointment and appoint some other person as Administrator."

60. In section 52BB of the Insurance Act,—

Amendment of section 52BB.

(a) in sub-section (2), for the words "the Central Government and the Central Government", the words "the Securities Appellate Tribunal and the Securities Appellate Tribunal" shall be substituted;

(b) in sub-section (3), for the words "Central Government", the words "Securities Appellate Tribunal", shall be substituted;

(c) in sub-section (10), in clause (a), the words "or the Central Government" shall be omitted.

61. For section 52D of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section

"52D. If at any time, it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled or that, for any reason, it is undesirable that the order of appointment should remain in force, the Authority may cancel the order and thereupon the Administrator shall be divested of the management of the insurance business, which shall, unless otherwise directed by the Authority, again vest in the person in whom it was vested immediately prior to the appointment of the Administrator or any other person appointed by the insurer in this behalf."

52D.
Termination
of
appointment
of
Administrator.

62. In section 52E of the Insurance Act, for the words "Central Government", the word "Authority" shall be substituted."

Amendment
of section
52E.

63. In section 52F of the Insurance Act, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty of rupees ten thousand each day during which such failure continues or rupees ten lakh, whichever is less" shall be substituted.

Amendment
of section
52F.

64. In section 52G of the Insurance Act, in sub-section (2), the words "Central Government or" shall be omitted.

Amendment
of section
52G.

65. Sections 52H, 52-I, 52J, 52K, 52L, 52M and 52N of the Insurance Act shall be omitted.

Omission of
sections 52H,
52-I, 52J,
52K, 52L,
52M and 52N.

66. In section 53 of the Insurance Act,—

Amendment
of section 53.

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the purpose of sections 53 to 61A, "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 408 of the Companies Act, 2013.";

18 of 2013.

(b) in sub-section (2), in clause (b), sub-clause (i), shall be omitted.

67. In section 58 of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment
of section 58.

"(4) An order of the Tribunal confirming a scheme under this

18 of 2013.

section whereby the memorandum of a company is altered with respect to its objects shall as respects the alteration have effect as if it were an order confirmed under section 4 of the Companies Act, 2013, and the provisions of sections 7 and 17 of that Act shall apply accordingly.”.

68. Section 59 of the Insurance Act shall be omitted.

Omission of section 59.

69. In Part II A of the Insurance Act, for the heading "INSURANCE ASSOCIATION OF INDIA, COUNCILS OF THE ASSOCIATION AND COMMITTEES THEREOF" the following heading shall be substituted, namely:—

Amendment of heading.

"LIFE INSURANCE COUNCIL AND GENERAL INSURANCE COUNCIL AND COMMITTEES THEREOF."

70. Sections 64A and 64B of the Insurance Act, shall be omitted.

Omission of sections 64A and 64B.

71. For sections 64C and 64D of the Insurance Act, the following sections shall be substituted, namely :—

Substitution of new sections for sections 64C and 64D.

“64C. On and from the date of commencement of the Insurance Laws (Amendment) Ordinance, 2014,—

Councils of Life Insurance and General Insurance.

(a) the existing Life Insurance Council, a representative body of the insurers, who carry on the life insurance business in India; and

(b) the existing General Insurance Council, a representative body of insurers, who carry on general, health insurance business and re-insurance in India,

shall be deemed to have been constituted as the respective Councils under this Act.

64D. It shall be lawful for any member of the Life Insurance Council or the General Insurance Council to authorise any of its officer to act as the representative of such member at any meeting of the Council concerned.”.

Authorisation to represent in Councils.

72. For section 64F of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 64F.

“64F. (1) The Executive Committee of the Life Insurance Council shall consist of the following persons, namely:—

Executive Committees of the Life Insurance Council and the General Insurance Council.

(a) four representatives of members of the Life Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;

(b) an eminent person not connected with insurance business, nominated by the Authority; and

(c) three persons to represent insurance agents, intermediaries and policyholders respectively as may be nominated by the Authority;

(d) one representative each from self-help groups and Insurance Co-operative Societies:

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the Life Insurance Council.

(2) The Executive Committee of the General Insurance Council shall consist of the following persons, namely:—

(a) four representatives of members of the General Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;

(b) an eminent person not connected with insurance business, nominated by the Authority; and

(c) four persons to represent insurance agents, third party administrators, surveyors and loss assessors and policyholders respectively as may be nominated by the Authority:

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the General Insurance Council.

(3) If anybody of persons specified in sub-sections (1) and (2) fails to elect any of the members of the Executive Committees of the Life Insurance Council or the General Insurance Council, the Authority may nominate any person to fill the vacancy, and any person so nominated shall be deemed to be a member of the Executive Committee of the Life Insurance Council or the General Insurance Council, as the

case may be, as if he had been duly elected thereto.

(4) Each of the said Executive Committees may make bye-laws for the transaction of any business at any meeting of the said Committee.

(5) The Life Insurance Council or the General Insurance Council may form such other committees consisting of such persons as it may think fit to discharge such functions as may be delegated thereto.

(6) The Secretary of the Executive Committee of the Life Insurance Council and of the Executive Committee of the General Insurance Council shall in each case be appointed by the Executive Committee concerned:

Provided that each Secretary appointed by the Executive Committee concerned shall exercise all such powers and do all such acts as may be authorised in this behalf by the Executive Committee concerned.”.

73. In section 64G of the Insurance Act, in sub-section (2), for the words “by nomination by the Authority”, the words “in such manner as may be laid down in the byelaws of the Council concerned” shall be substituted.

Amendment
of section
64G.

74. Section 64-I of the Insurance Act shall be omitted.

Omission of
section 64-I.

75. In section 64J of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section 64J.

“(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the Life Insurance Council may collect such fees as may be laid down in the bye-laws made by the Council from the insurers carrying on life insurance business.”.

76. In section 64L of the Insurance Act, for sub section (2), the following sub-section shall be substituted, namely:—

Amendment
of section
64L.

“(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the General Insurance Council may collect such fees as may be laid down in the bye-laws made by the Council from the insurers carrying on general insurance business.”.

77. In section 64N of the Insurance Act, for the words “the Central Government may prescribe”, the words “the Authority may specify” shall be substituted.

Amendment
of section
64N.

78. In section 64R of the Insurance Act, in sub-section (1),—

Amendment
of section
64R.

(a) for clause (c), the following clause shall be substituted, namely:—

“(c) keep and maintain up to date a copy of list of all insurers who are members of the either Council.”.

(b) in clause (d), for the words “with the previous approval of the Authority make regulations for”, the words “make bye laws for” shall be substituted.

79. Sections 64S and 64T of the Insurance Act shall be omitted.

Omission of
sections 64S
and 64T.

80. Sections 64U, 64UA, 64UB, 64UC, 64UD, 64UE, 64UF, 64UG, 64UH, 64UI, 64UJ, 64UK and 64UL of the Insurance Act shall be omitted.

Omission of
sections 64U,
64UA, 64UB,
64UC, 64UD,
64UE, 64UF,
64UG, 64UH,
64UI, 64UJ,
64UK and
64UL.

81. After section 64UL of the Insurance Act, the following section shall be inserted, namely:—

Insertion of
new section
64ULA.

“64ULA. (1) Notwithstanding anything contained in this Part, until the rates, advantage and terms and conditions laid-down by the Advisory Committee under section 64UC are de-notified by the Authority with effect from such date as the Authority may by notification in the Official Gazette determine, and the rates, advantages and terms and conditions are decided by the insurer concerned, the rates, advantages and terms and conditions notified by the Advisory Committee shall continue to be in force and shall always be deemed to have been in force and any such rates, advantages and terms and conditions shall be binding on all the insurers.

Transitional
provisions.

(2) The Authority shall, in consultation with the Central Government, prepare a scheme for the existing employees of the Tariff Advisory Committee on its dissolution, keeping in view the interests of such employees on such terms and

conditions as it may, by order, determine.

82. For section 64UM of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section
64UM.
Surveyors or
loss assessors.

64UM. (1) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Ordinance, 2014, unless he—

(a) possesses such academic qualifications as may be specified by the regulations made under this Act; and

(b) is a member of a professional body of surveyors and loss assessors, namely, the Indian Institute of Insurance Surveyors and Loss Assessors:

Provided that in the case of a firm or company, all the partners or directors or other persons, who may be called upon to make a survey or assess a loss reported, as the case may be, shall fulfil the requirements of clauses (a) and (b).

(2) Every surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and other professional requirements, as may be specified by the regulations made under the Act.

(3) Notwithstanding anything contained in the foregoing provisions, a class or class of persons acting as a licensed surveyor or loss assessor prior to the commencement of the Insurance Laws (Amendment) Ordinance, 2014 shall continue to act as such for such period as may be specified by the regulations made under this Act:

Provided that the surveyor or loss assessor shall, within the period as may be notified by the Authority, satisfy the requirements of clause (a) and clause (b) of sub-section (1), failing which, the surveyor or loss assessor shall be automatically disqualified to act as a surveyor or loss assessor.”.

(4) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding an amount specified in the regulations by the Authority in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Ordinance, 2014, shall, unless otherwise directed by the Authority, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under

this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor")

Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor.

(5) The Authority may, at any time, in respect of any claim of the nature referred to in sub-section (4), call for an independent report from any other approved surveyor or loss assessor specified by him and such surveyor or loss assessor shall furnish such report to the Authority within such time as may be specified by the Authority or if no time limit has been specified by him within a reasonable time and the cost of, or incidental to, such report shall be borne by the insurer.

(6) The Authority may, on receipt of a report referred to in sub-section (5), issue such directions as it may consider necessary with regard to the settlement of the claim including any direction to settle a claim at a figure less than, or more than, that at which it is proposed to settle it or it was settled and the insurer shall be bound to comply with such directions:

Provided that where the Authority issues a direction for settling a claim at a figure lower than that at which it has already been settled, the insurer shall be deemed to comply with such direction if he satisfies the Authority that all reasonable steps, with due regard to the question whether the expenditure involved is not disproportionate to the amount required to be recovered, have been taken with due despatch by him:

Provided further that no direction for the payment of a lesser sum shall be made where the amount of the claim has already been paid and the Authority is of opinion that the recovery of the amount paid in excess would cause undue hardship to the insured:

Provided also that nothing in this section shall relieve the insurer from any liability, civil or criminal, to which he would have been subject but for the provisions of this sub-section.

(7) No insurer shall, after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Ordinance, 2014 pay to any person any fee or remuneration for surveying, verifying or reporting on a claim

of loss under a policy of insurance unless the person making such survey, verification or report is an approved surveyor or loss assessor.

(8) Where, in the case of a claim of less than the amount specified in sub-section (4) in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer may employ any other person (not being a person disqualified for the time being for being employed as a surveyor or loss assessor) for surveying such loss and may pay such reasonable fee or remuneration to the person so employed as he may think fit.

(9) The Authority may in respect of any claim of value of less than the amount specified in sub-section (4) on an insurance policy, if the claim has not been or is not proposed to be reported upon by a surveyor or loss assessor, direct that such claim shall be reported upon by an approved surveyor or loss assessor and where the Authority makes such direction, the provisions of sub sections (5) and (6) shall apply in respect of such claim.

(10) Where, in relation to any class of claims, the Authority is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a licensed surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order, exempt such class of claims from the operation of this section.

83. For sections 64V and 64VA of the Insurance Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 64V
and 64VA.

“64V. (1) For the purpose of ascertaining compliance with the provisions of section 64VA, assets shall be valued at value not exceeding their market or realisable value and certain assets may be excluded by the Authority in the manner as may be specified by the regulations made in this behalf.

Assets and
liabilities how
to be valued.

(2) A proper value shall be placed on every item of liability of the insurer in the manner as may be specified by the regulations made in this behalf.

(3) Every insurer shall furnish to the Authority along with

the returns required to be filed under this Act, a statement, certified by an Auditor, approved by the Authority, in respect of general insurance business or an actuary approved by the Authority in respect of life insurance business, as the case may be, of his assets and liabilities assessed in the manner required by this section as on the 31st day of March of each year within such time as may be specified by the regulations.

64VA. (1) Every insurer and re-insurer shall at all times maintain an excess of value of assets over the amount of liabilities of, not less than fifty per cent. of the amount of minimum capital as stated under section 6 and arrived at in the manner specified by the regulations.

Sufficiency of assets.

(2) An insurer or re-insurer, as the case may be, who does not comply with subsection (1), shall be deemed to be insolvent and may be wound-up by the court on an application made by the Authority.

(3) The Authority shall by way of regulation made for the purpose, specify a level of solvency margin known as control level of solvency on the breach of which the Authority shall act in accordance with the provisions of sub-section (4) without prejudice to taking of any other remedial measures as deemed fit:

Provided that if in respect of any insurer the Authority is satisfied that either by reason of an unfavourable claim experience or because of a sharp increase in the volume of new business, or for any other reason, compliance with the provisions of this sub-section shall cause undue hardship to the insurer, it may direct that for such period and subject to such conditions as it may specify, the provisions of this sub-section shall apply to that insurer with such modifications provided that such modifications shall not result in the control level of solvency being less than what is stipulated under sub-section (1).

(4) If, at any time, an insurer or re-insurer does not maintain the required control level of solvency margin, he shall, in accordance with the directions issued by the Authority, submit a financial plan to the Authority, indicating a plan of action to correct the deficiency within a specified period not exceeding six months.

(5) An insurer who has submitted a plan, as required under sub-section (4), the Authority shall propose modifications to

the plan, if the Authority considers the same inadequate, and in such an eventuality, the Authority shall give directions, as may be deemed necessary, including direction in regard to transacting any new business, or, appointment of an administrator or both.

(6) An insurer or re-insurer, as the case may be, who does not comply with the provisions of sub-section (4) shall be deemed to have made default in complying with the requirements of this section.

(7) The Authority shall be entitled at any time to take such steps as it may consider necessary for the inspection or verification of the assets and liabilities of any insurer or re-insurer, or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date, and the insurer or re-insurer, as the case may be, shall comply with any requisition made in this behalf by the Authority, and in the event of any failure to do so within two months from the receipt of the requisition, the insurer or re-insurer, as the case may be, shall be deemed to have made default in complying with the requirements of this section.

(8) In applying the provisions of sub-section (1) to any insurer or re-insurer, as the case may be, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy:

Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India shall comply with the requirements of sub-section (1) as if he had not been an insurer in a group at any time:

Provided further that it shall be sufficient compliance of the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within a period of six months from the date of cessation of the group:

Provided also that the Authority may, on sufficient cause being shown, extend the said period of six months by such

further periods as it may think fit, so, however that the total period may not in any case exceed one year.

(9) Every insurer shall furnish to the Authority return giving details of solvency margin in such form, time, manner including its authentication as may be specified by the regulations."

84. For section 64VC of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section
64VC.

"64VC. No insurer shall, after the commencement of the Insurance (Amendment) Act, 1968, open a new place of business or close a place in India or outside India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India or outside India, except in the manner as may be specified by the regulations."

Restrictions
on opening of
new place of
business.

85. PART III and IIIA of the Insurance Act shall be omitted.

Omission of
Part III and
IIIA.

86. PART IV of the Insurance Act shall be omitted.

Omission of
Part IV.

87. In section 102 of the Insurance Act, for the words "not exceeding five lakh rupees for each such failure and punishable with fine", the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less" shall be substituted.

Amendment
of section
102.

88. For sections 103 and 104 of the Insurance Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 103
and 104.

"103. If a person carries on the business of insurance without obtaining a certificate of registration under section 3, he shall be liable to a fine not exceeding rupees twenty-five crores and with imprisonment which may extend to ten years.

Penalty for
carrying on
insurance
business in
contravention
of section 3.

104. If a person fails to comply with the provisions of section 27, section 27A, section 27B, section 27D and section 27E, he shall be liable to a penalty not exceeding twenty-five crore rupees."

Penalty for
contravention
of sections 27,
27A, 27B,
27D and 27E.

89. In section 105 of the Insurance Act, for the words "not

Amendment

exceeding two lakh rupees for each such failure”, the words “not exceeding one crore rupees” shall be substituted.

of section
105.

90. For sections 105B and 105C of the Insurance Act, the following sections shall be substituted, namely :—

Substitution
of new
sections for
sections 105B
and 105C.

“105B. If an insurer fails to comply with the provisions of section 32B, section 32C and section 32D, he shall be liable to a penalty not exceeding twenty-five crore rupees.

Penalty for
failure to
comply with
sections 32B,
32C and 32D.
Power to
adjudicate.

105C. (1) For the purpose of adjudication under sub-section (2) of section 2CB, sub-section (4) of section 34B sub-section (3) of section 40, sub-section (2) of section 41, sub-sections (4) and (5) of section 42, sub-sections (8) and (9) of section 42D, section 52F and section 105B, the Authority, shall appoint any officer not below the rank of a Joint Director or an equivalent officer to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard.

(2) Upon receipt of the inquiry report from the officer so appointed, the Authority after giving an opportunity of being heard to the person concerned may impose any penalty provided in sections aforesaid.

(3) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if on such inquiry, is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may recommend such penalty as he thinks fit in accordance with the provisions of any of those sections.

105D. While recommending the quantum of penalty under section 105C, the adjudicating officer and while imposing such penalty, the Authority shall have due regard to the following factors, namely:—

Factors to be
taken into
account by the
adjudicating
officer.

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to the policy-holders as a result of the default; and

(c) the repetitive nature of default."

91. In section 106A of the Insurance Act, in sub-section (2)—

Amendment
of section
106A.

(i) clauses (a), (b) and (f) shall be omitted;

(ii) in clause (d), the words "or a provident society" shall be omitted.'

92. Sections 107 and 107A of the Insurance Act shall be omitted.

Omission of
section 107
and 107A.

93. For section 109 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section
109.

"109. No court shall take cognizance of any offence punishable under this Act or any rules or any regulations made thereunder, save on a complaint made by an officer of the Authority or by any person authorised by it. "

Cognizance of
offence.

94. For section 110 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of
new section for
section 110.

"110. (1) Any person aggrieved—

Appeal to
Securities
Appellate
Tribunal.

(a) by an order of the Authority made on and after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, or under this Act, the rules or regulations made thereunder, or

(b) by an order made by the Authority by way of adjudication under this Act, may prefer an appeal to the Securities Appellate Tribunal having jurisdiction in the matter.

(2) Every appeal made under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Authority is received by him and it shall be in such a form and be accompanied by such fees as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-

five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may after giving parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, conforming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall make available copy of order made by it to the Authority and parties.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of appeal.

(6) The procedure for filing and disposing of an appeal shall be such as may be prescribed.

(7) The provision contained in section 15U, section 15V, section 15W, section 15Y and section 15Z of the Securities and Exchange Board of India Act, 1992 shall apply to the appeals arising out of the provisions of this Act, as they apply to the appeals under the Securities and Exchange Board of India Act, 1992.

15 of 1992.

95. Section 110E of the Insurance Act shall be omitted.

Omission of section 110E.

96. Sections 110G and 110H of the Insurance Act shall be omitted.

Omission of sections 110G and 110H.

97. After section 110H of the Insurance Act, the following section shall be inserted, namely:—

Insertion of new section 110HA.

“110HA. Any penalty imposed by the Authority under this Act shall be recoverable as an arrear of land revenue.”

Penalty to be recoverable as arrear of land revenue.

98. In section 111 of the Insurance Act,—

Amendment of section 111.

(a) in sub-section (1), the words “or provident society” occurring at both the places shall be omitted;

(b) in sub-section (2), in the proviso, the words “or to a provident society” shall be omitted.

99. For section 113 of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new section
for section
113.

“113. (1) A policy of life insurance shall acquire surrender value as per the norms specified by the regulations.

Acquisition of
surrender
value by
policy.

(2) Every policy of life insurance shall contain the formula as approved by the Authority for calculation of guaranteed surrender value of the policy:

(3) Notwithstanding any contract to the contrary, a policy of life insurance under a non-linked plan which has acquired a surrender value shall not lapse by reason of non-payment of further premiums but shall be kept in force to the extent of paid-up sum insured, calculated by means of a formula as approved by the Authority, and contained in the policy, and the reversionary bonuses that have already been attached to the policy:

Provided that a policy of life insurance under a linked plan shall be kept in force in the manner as may be specified by the regulations.

(4) The provisions of sub-section (3) shall not apply—

(i) where the paid-up sum insured by a policy, inclusive of attached bonuses, is less than the amount specified by the Authority or takes the form of annuity of amount less than the amount specified by the Authority; or

(ii) when the parties after the default has occurred in payment of the premium agree in writing to other arrangement.”.

100. In section 114 of the Insurance Act,—

Amendment
of section
114.

(a) in sub section (2)—

(i) clause (aa) shall be omitted;

(ii) after clause (aa) as so omitted, the following clause shall be inserted, namely:—

“(aaa) the manner of ownership and control of Indian insurance company under sub-clause (b) of clause (7A) of section 2”;

(iii) clause (c) and clause (f) shall be omitted;

(iv) after clause (l), the following clauses shall be inserted, namely:-

"(la) the manner of inquiry under sub-section (l) of section 105C;

(lb) the form in which an appeal may be preferred under sub-section (2) and the fee payable in respect of such appeal and the procedure for filing and disposing of an appeal under sub-section (6) of section 110;

(b) in sub-section (3), the words, brackets, figures and letters "or under sub-section (1) of section 64UB and every regulation made under sub-section (3) of section 64UB" shall be omitted.'

101. In section 114A of the Insurance Act, in sub-section (2),—

Amendment
of section
114A.

(i) for clauses (a) and (aa), the following clause shall be substituted, namely:—

"(a) manner of making application for registration and documents to be accompanied under sub-section (2) of section 3;"

(ii) for clause (d), the following clause shall be substituted, namely:—

"(d) such annual fee to the Authority and manner of payment under subsection (1) of section 3A;"

(iii) after clause (d), the following clauses shall be inserted, namely:—

"(da) such minimum annuity and other benefits to be secured by the insurer under section 4;

(daa) determination of preliminary expenses that may be excluded for calculation of the stipulated paid-up equity capital for the insurers under sub-section (1) of section 6;

(db) such equity capital and such forms of capital including hybrid capital required under sub-section (1) of section 6A;"

(iv) clause (e) shall be omitted;

(v) after clause (e), as so omitted, the following clause shall be inserted, namely:—

"(ea) separation of account of all receipts and payments in respect of each classes and sub-classes of insurance business as required under sub-section (1) and sub-section (2A) of section 10; and its waiver under the said section;"

(v) in clause (f), for the words, brackets, figures and letter "under sub-section (1A) of section 11", the words, brackets and figures "under sub-section (1) of section 11" shall be substituted;

(vii) for clause (g), the following clause shall be substituted, namely:—

"(g) the manner in which an abstract of the report of the actuary to be specified and the form and manner in which the statement referred to in section 13 shall be appended;"

(viii) after clause (g), the following clauses shall be inserted, namely:—

"(ga) maintenance of records of policies and claims under clause (c) of sub-section (1) of section 14;

(gb) manner and form of issuance of policies in electronic form under sub-section (2) of section 14."'

(ix) for clause (h), the following clause shall be substituted, namely:—

"(h) the fee for procuring a copy of return or any part thereof under subsection (1) of section 20;"

(x) for clause (i), the following clause shall be substituted, namely:—

"(i) investment of assets and further provisions regarding investments by an insurer and investment by insurers in certain cases under sections 27, 27A, 27B, 27C and time, manner and other conditions of investment of assets under section 27D;"

(xi) for clauses (ia), (ib), (ic), (id) and (ie), the following

clauses shall be substituted, namely:—

"(ia) the form in which a return giving details of investments made, time and manner including its authentication under section 28;

(ib) the loans including the loans sanctioned to the full-time employees of the insurer under clause (a) of sub-section (3) of section 29;

(ic) the sum to be paid by the insurer to any person under section 31B;

(id) the obligation of insurer in respect of rural or social or unorganised sector and backward classes under section 32B and 32C;

(ie) the minimum percentage of insurance business in third party risks of motor vehicles under section 32D;"

(xii) for clause (j), the following clause shall be substituted, namely:—

"(j) the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications in that connection and all other matters incidental thereto under sub-section (7) of section 33;"

(xiii) after clause (j), the following clauses shall be inserted, namely:—

"(ja) the form in which balance-sheets in respect of the insurance business of each of the insurers concerned and the manner in which actuarial reports and abstracts in respect of the life insurance business are to be prepared under clauses (b) and (c) of sub-section (3) of section 35;

(jb) the manner of assessment of compensation under the proviso to sub-section (4A) of section 37A;

(jc) the fee to be charged by the insurer under sub-section (3) of section 39;

(jd) the manner and amount of remuneration or reward to be paid or received by way of commission or otherwise to an insurance agent or an intermediary or insurance intermediary

under section 40;

(je) the manner and form of expenses of management under sections 40B and 40C.";

(xiv) clauses (k) and (l) shall be omitted;

(xv) for clause (m), the following clause shall be substituted, namely:—

"(m) the requisite qualifications or practical training or examination to be passed for appointment as an insurance agent under clause (e) of sub-section (3) of section 42 and code of conduct for agents under sub-section (5) of section 42;

(xvi) clause (n) shall be omitted;

(xvii) for clause (o), the following clause shall be substituted, namely:—

"(o) the code of conduct under clause (h) of sub-section (3) of section 42;"

(xviii) clause (p) shall be omitted;

(xix) clause (va) shall be omitted;

(xx) in clause (vb), the words, brackets and figure "sub-section (2) of" shall be omitted;

(xxi) for clause (x), the following clauses shall be substituted, namely:—

"(x) academic qualifications and code of conduct for surveyors and loss assessors under sub-sections (1) and (2) of section 64UM;

(xa) the period for which a person may act as a surveyor or loss assessor under sub-section (3) of section 64 UM;"

(xxii) clause (w), shall be omitted;

(xxiii) for clause (y), the following clause shall be substituted, namely:—

"(y) the manner of exclusion of certain assets under sub-section (1). the manner of valuation of liabilities under sub-

section (2) and time for furnishing statement under sub-section (3) of section 64V;"

(xxiv) for clause (za), the following clause shall be substituted, namely:—

"(za) the matters specified under sub-section (1) of section 64VA relating to sufficiency of assets;"

(xxv) after clause (zaa), the following clauses shall be inserted, namely:—

"(zab) the form, time, manner including authentication of the return giving details of solvency margin under sub-section (9) of section 64VA;

(zac) the manner of opening and closing places of business under section 64VC;"

(xxvi) after clause (zb), the following clause shall be added, namely:—

"(zba) the norms for surrender value of life insurance policy under subsection (1) of section 113;"

102. In the Insurance Act, the Fifth Schedule, the Sixth Schedule and the Eighth Schedule shall be omitted.

Omission of Fifth, Sixth and Eighth Schedules.

CHAPTER III

AMENDMENTS TO THE GENERAL INSURANCE BUSINESS (NATIONALISATION) ACT, 1972

57 of 1972.

103. In the General Insurance Business (Nationalisation) Act, 1972, after section 10A, the following section shall be inserted, namely:—

Insertion of a new section 10 B

"10B. The General Insurance Corporation and the insurance companies specified in section 10A may, raise their capital for increasing their business in rural and social sectors, to meet solvency margin and such other purposes, as the Central Government may empower in this behalf:

Enhancement of equity capital of General Insurance companies.

Provided that the shareholding of the Central Government shall not be less than fifty one per cent. at any time."

- 57 of 1972. 104. Section 25 of the General Insurance Business (Nationalisation) Act, 1972 shall be omitted. Omission of section 25.

CHAPTER IV
AMENDMENTS TO THE INSURANCE REGULATORY
AND DEVELOPMENT AUTHORITY ACT, 1999

- 41 of 1999. 105. In section 2 of the Insurance Regulatory and Development Authority Act, 1999, in sub-section (I),— Amendment of section 2.

(i) in clause (b), after the words "Development Authority", the words "of India", shall be inserted;

(ii) for clause (f), the following clause shall be substituted namely:—

“(f) “Intermediary” or “insurance intermediary” includes insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, surveyors and loss assessors and such other entities, as may be notified by the Authority from time to time.”.

- 41 of 1999. 106. In section 3 of the Insurance Regulatory and Development Authority Act, 1999, in sub-section (I), after the words “Development Authority” the words “of India” shall be inserted. Amendment of section 3.

- 41 of 1999. 107. In section 16 of Insurance Regulatory and Development Authority Act, 1999, in sub-section (I), clause (c) shall be omitted. Amendment of section 16.

Sd/-

PRANAB MUKHERJEE,
President.

Sd/-

P. K. Malhotra,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



सत्यमेव जयते



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 19th January, 2015.

No. RPB/9-2014/Ord-09-2014/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section I, Dated the 31st December, 2014 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 2014, Pausa 10, 1936 (Saka)

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) ORDINANCE, 2014

No. 9 of 2014

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

An Ordinance to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014.

Short title and commencement.

(2) It shall come into force at once.

Substitution of certain expression throughout the Act.

2. In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words "private company" wherever they occur, the words "private entity" shall be substituted.

30 of 2013.

Amendment of section 2.

3. In the principal Act, in section 2, —

(i) in sub-section (1), in clause (b), in sub-clause (i), the words "private hospitals; private educational institutions and" shall be omitted;

(ii) in sub-section (2), after the second proviso, the following proviso shall be inserted, namely: —

"Provided also that the acquisition of land, for the projects listed in section 10A and the purposes specified therein, shall be exempted from the provisions of the first proviso to this sub-section."

Amendment of section 3.

4. In the principal Act, in section 3,—

(i) in clause (j), in sub-clause (i), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted;

1 of 1956.
18 of 2013.

(ii) after clause (y), the following clause shall be inserted, namely:—

'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisation or other entity under any law for the time being in force.'

Insertion of new Chapter IIIA.

5. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS

Power of appropriate Government to exempt certain projects.

10A. The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely: —

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence; or defence production;

(b) rural infrastructure including electrification;

(c) affordable housing and housing for the poor people;

(d) industrial corridors ; and

(e) infrastructure and social infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government.”.

6. In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely: –

Amendment of section 24.

“Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation lying deposited in a court or in any account maintained for this purpose shall be excluded.”.

7. In the principal Act, in section 46, in sub-section (6), in the *Explanation*, in clause (b), the words “any person other than” shall be omitted.

Amendment of section 46.

8. In the principal Act, for section 87, the following section shall be substituted, namely: –

Substitution of section 87.

“87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, no court shall take cognizance of such offence except with the previous sanction of the appropriate Government, in the manner provided in section 197 of the Code of Criminal Procedure.”.

Offences by Government officials.

2 of 1974.

9. In the principal Act, in section 101, for the words, “a period of five years” the words, “a period specified for setting up of any project or for five years, whichever is later, ” shall be substituted.

Amendment of section 101.

10. In the principal Act, in section 105,–

Amendment of section 105.

(i) for sub-section (3), the following sub-section shall be substituted, namely: –

“(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015.”;

(ii) sub-section (4) shall be omitted.

Amendment of
section 113.

11. In the principal Act, in section 113, in sub-section (1), –

- (i) for the words “the provisions of this Part”, the words “the provisions of this Act” shall be substituted;
- (ii) in the proviso, for the words “a period of two years”, the words “a period of five years” shall be substituted.

Sd/-

PRANAB MUKHERJEE,
President.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar.

Dated the 31st January, 2015.

No. RPB/2-2015/Ord.-03-2015/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 12th January, 2015 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th January, 2015/Pausa 22,1936 (Saka)

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT ORDINANCE, 2015

No. 3 OF 2015

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

An Ordinance further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015.

Short title and
commencement.

- (2) It shall come into force at once.

Amendment of
section 3.

2. In the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act), in section 3, -

67 of 1957.

(i) after clause (e), the following clause shall be inserted, namely:-

“(ea) “notified minerals” means any mineral specified in the Fourth Schedule;”;

(ii) after clause (g), the following clause shall be inserted, namely:-

“(ga) “prospecting licence-cum-mining lease” means a two stage concession granted for the purpose of undertaking prospecting operations followed by mining operations;”;

(iii) in clause (hb), the word “and” occurring at the end shall be omitted;

(iv) after clause (hb), the following clause shall be inserted, namely:-

“(hc) “Special Court” means a Court of Session designated as Special Court under sub-section (1) of section 30B; and”.

Amendment of
section 4.

3. In section 4 of the principal Act, in the second proviso to sub-section (1), for the words and figures “section 617 of the Companies Act, 1956”, the words, brackets and figures “clause (45) of section 2 of the Companies Act, 2013, and any such entity that may be notified for this purpose by the Central Government” shall be substituted.

1 of 1956.

18 of 2013.

Amendment of
section 4A.

4. In section 4A of the principal Act, in sub-section (4), for the provisos, the following provisos shall be substituted, namely:-

“Provided that the State Government may, on an application made by the holder of such lease before it lapses and on being satisfied that it will not be possible for the holder of the lease to undertake mining operations or to continue such operations for reasons beyond his control, make an order, within a period of three months from the date of receiving of such application, subject to such conditions as may be prescribed, to the effect that

such lease shall not lapse:

Provided further that such lease shall lapse on failure to undertake mining operations or inability to continue the same before the end of a period of six months from the date of the order of the State Government:

Provided also that the State Government may, on an application made by the holder of a lease submitted within a period of six months from the date of its lapse and on being satisfied that such non-commencement or discontinuance was due to reasons beyond the control of the holder of the lease, revive the lease within a period of three months from the date of receiving the application from such prospective or retrospective date as it thinks fit but not earlier than the date of lapse of the lease:

Provided also that no lease shall be revived under the third proviso for more than twice during the entire period of the lease.”

5. In section 5 of the principal Act, -

Amendment of
section 5.

(A) in sub-section (1), -

1 of 1956.

18 of 2013.

(i) in clause (a), for the words, brackets and figures “sub-section (1) of section 3 of the Companies Act, 1956”, the words, brackets and figures “clause (20) of section 2 of the Companies Act, 2013” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:-

“Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.”;

(B) in sub-section (2),-

(i) for clause (a), the following clause shall be substituted, namely:-

“(a) there is evidence to show the existence of mineral contents in the area for which the application for a mining lease has been made in accordance with such parameters as may be prescribed for this purpose by the Central Government;”;

(ii) after clause (b), the following proviso shall be inserted, namely:-

“Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government.”.

Amendment of
section 6.

6. In section 6 of the principal Act, in sub-section (1), in clause (b), for the proviso, the following proviso shall be substituted, namely:-

“Provided that if the Central Government is of the opinion that in the interest of the development of any mineral or industry, it is necessary so to do, it may, for reasons to be recorded in writing, increase the aforesaid area limits in respect of prospecting licence or mining lease, in so far as it pertains to any particular mineral, or to any specified category of deposits of such mineral, or to any particular mineral located in any particular area.”.

Substitution of
section 8.

7. For section 8 of the principal Act, the following section shall be substituted, namely:-

Periods for
which mining
leases may be
granted or
renewed.

“8. (1) The provisions of this section shall apply to minerals specified in Part A of the First Schedule.

(2) The maximum period for which a mining lease may be granted shall not exceed thirty years:

Provided that the minimum period for which any such mining lease may be granted shall not be less than twenty years.

(3) A mining lease may be renewed for a period not exceeding twenty years with the previous approval of the Central Government.”.

8. After section 8 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 8A.

“8A. (1) The provisions of this section shall apply to minerals other than those specified in Part A and Part B of the First Schedule.

Period of grant of a mining lease for minerals other than coal, lignite and atomic minerals.

(2) On and from the date of the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, all mining leases shall be granted for the period of fifty years.

(3) All mining leases granted before the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 shall be deemed to have been granted for a period of fifty years.

(4) On the expiry of the lease period, the lease shall be put up for auction as per the procedure specified in this Act.

(5) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, where mineral is used for captive purpose, shall be extended and be deemed to have been extended upto a period ending on 31st March, 2030 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.

(6) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, where mineral is used for other than captive purpose, shall be extended and be deemed to have been extended upto a period ending on 31st March, 2020 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the

condition that all the terms and conditions of the lease have been complied with.

(7) Any holder of a lease granted, where mineral is used for captive purpose, shall have the right of first refusal at the time of auction held for such lease after the expiry of the lease period.

(8) Notwithstanding anything contained in this section, the period of mining leases, including existing mining leases, of Government companies or corporations shall be such as may be prescribed by the Central Government.

(9) The provisions of this section, notwithstanding anything contained therein, shall not apply to a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, for which renewal has been rejected, or which has been determined, or lapsed. ”.

Insertion of new sections 9B and 9C.

9. After section 9A of the principal Act, the following sections shall be inserted, namely:-

District Mineral Foundation.

“9B. (1) In any district affected by mining related operations, the State Government shall, by notification, establish a trust, as a non-profit body, to be called the District Mineral Foundation.

(2) The object of the District Mineral Foundation shall be to work for the interest and benefit of persons, and areas affected by mining related operations in such manner as may be prescribed by the State Government.

(3) The composition and functions of the District Mineral Foundation shall be such as may be prescribed by the State Government.

(4) The holder of a mining lease or a prospecting licence-cum-mining lease shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one-third of such royalty, as may be prescribed by the Central Government.

9C. (1) The Central Government shall, by notification, establish a Trust, as a non-profit body, to be called the National Mineral Exploration Trust.

(2) The object of the Trust shall be to use the funds accrued to the Trust for the purposes of regional and detailed exploration in such manner as may be prescribed by the Central Government.

(3) The composition and functions of the Trust shall be such as may be prescribed by the Central Government.

(4) The holder of a mining lease or a prospecting licence-cum-mining lease shall pay to the Trust, a sum equivalent to two per cent. of the royalty paid in terms of the Second Schedule, in such manner as may be prescribed by the Central Government.”

10. After section 10 of the principal Act, the following sections shall be inserted, namely:-

Insertion of new sections 10A, 10B and 10C.

“10A. (1) All applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, shall become ineligible.

Rights of existing concession holders and applicants.

(2) Without prejudice to sub-section (1), the following shall remain eligible on and from the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015: —

(a) applications received under section 11A of this Act;

(b) where, before the commencement of the said Ordinance a reconnaissance permit or prospecting licence has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting licence followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be, —

- (i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government;
- (ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting licence;
- (iii) has not become ineligible under the provisions of this Act; and
- (iv) has not failed to apply for grant of prospecting licence or mining lease, as the case may be, within a period of three months after the expiry of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

(c) where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of a mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the said Ordinance:

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted under clause (b) of this sub-section except with the previous approval of the Central Government.

10B. (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which the minerals do not vest in the Government.

(2) Where there is inadequate evidence to show the existence of mineral contents of any notified mineral in respect of any area, a State Government may, after

obtaining the previous approval of the Central Government, grant a prospecting licence-cum-mining lease for the said notified mineral in such area in accordance with the procedure laid down in section 11.

(3) In areas where the existence of mineral contents of any notified mineral is established in the manner prescribed by the Central Government, the State Government shall notify such areas for grant of mining leases for such notified mineral, the terms and conditions subject to which such mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(4) For the purpose of granting a mining lease in respect of any notified mineral in such notified area, the State Government shall select, through auction by a method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

(5) The Central Government shall prescribe the terms and conditions, and procedure, subject to which the auction shall be conducted, including the bidding parameters for the selection, which may include a share in the production of the mineral, or any payment linked to the royalty payable, or any other relevant parameter, or any combination or modification of them.

(6) Without prejudice to the generality of sub-section (5), the Central Government shall, if it is of the opinion that it is necessary and expedient to do so, prescribe terms and conditions, procedure and bidding parameters in respect of categories of minerals, size and area of mineral deposits and a State or States, subject to which the auction shall be conducted:

Provided that the terms and conditions may include the reservation of any particular mine or mines for a particular end use and subject to such condition which allow only such eligible end users to participate in the auction.

(7) The State Government shall grant a mining lease to an applicant selected in accordance with the procedure laid down in this section in respect of such notified mineral in any notified area.

Grant of non-exclusive reconnaissance permits.

10C. (1) Non-exclusive reconnaissance permits may be granted in respect of any notified mineral or non-notified mineral or a group of specified minerals, other than minerals specified in Part A or Part B of the First Schedule, subject to such terms and conditions as may be prescribed by the Central Government.

(2) The holder of such non-exclusive reconnaissance permit shall not be entitled to make any claim for the grant of any prospecting licence-cum-mining lease or a mining lease.”

Substitution of section 11.

11. For section 11 of the principal Act, the following section shall be substituted, namely:-

Grant of prospecting licence-cum-mining lease through auction in respect of minerals other than notified minerals.

“**11.** (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which minerals do not vest in the Government.

(2) In areas where there is evidence to show the existence of mineral contents as required by clause (a) of sub-section (2) of section 5, the State Government shall grant a mining lease for minerals other than notified minerals following the procedure laid down in section 10B.

(3) In areas where there is inadequate evidence to show the existence of mineral contents as required under clause (a) of sub-section (2) of section 5, the State Government shall grant a prospecting licence-cum-mining lease for minerals other than notified minerals in accordance with the procedure laid down in this section.

(4) The State Government shall notify the areas in which prospecting licence-cum-mining leases shall be granted for any minerals other than notified minerals, the terms and conditions subject to which such prospecting licence-cum-mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(5) For the purpose of granting prospecting licence-cum-mining leases, the State Government shall select, through auction by method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

(6) The Central Government shall prescribe the terms and conditions, and procedure, subject to which the auction shall be conducted, including the bidding parameters for the selection, which may include a share in the production of the mineral, or any payment linked to the royalty payable, or any other relevant parameter, or any combination or modification of them.

(7) Without prejudice to the generality of sub-section (6), the Central Government shall, if it is of the opinion that it is necessary and expedient to do so, prescribe terms and conditions, procedure and bidding parameters in respect of categories of minerals, size and area of mineral deposits and a State or States, subject to which the auction shall be conducted.

(8) The State Government shall grant a prospecting licence-cum-mining lease to an applicant selected in accordance with the procedure laid down in this section.

(9) The holder of a prospecting licence-cum-mining lease shall be required to complete, within the period laid down in section 7, the prospecting operations satisfactorily as specified in the notice inviting applications.

(10) A holder of a prospecting licence-cum-mining lease, who completes the prospecting operation as laid down in sub-section (9) and establishes the existence of mineral contents in the area in conformity with such parameters as may be prescribed for this purpose by the Central Government, shall be required to apply for a mining lease for such area and shall have the right to get the mining lease and thereafter undertake mining operations in accordance with the provisions of this Act.”.

12. After section 11A of the principal Act, the following sections shall be inserted, namely:-

Insertion of new sections 11B and 11C.

“11B. The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of mining leases or other mineral concessions in respect of minerals specified in Part B of the First Schedule and for purposes connected therewith, and the State Government shall grant a reconnaissance permit, prospecting licence or mining lease in respect of any such mineral in accordance with such rules.

Power of Central Government to make rules for regulating atomic minerals specified under Part B of First Schedule.

Power of
Central
Government to
amend First
Schedule and
Fourth
Schedule.

11C. The Central Government may, by notification in the Official Gazette, amend the First Schedule and the Fourth Schedule so as to add or delete any mineral as may be specified in the notification.”.

Insertion of
new section
12A.

13. After section 12 of the principal Act, the following section shall be inserted, namely:—

Transfer of
mineral
concessions.

“12A. (1) The provisions of this section shall not apply to minerals specified in Part A or Part B of the First Schedule.

(2) A holder of a mining lease or a prospecting licence-cum-mining lease granted in accordance with the procedure laid down in section 10B or section 11 may, with the previous approval of the State Government, transfer his mining lease or prospecting licence-cum-mining lease, as the case may be, in such manner as may be prescribed by the Central Government, to any person eligible to hold such mining lease or prospecting licence-cum-mining lease in accordance with the provisions of this Act and the rules made thereunder.

(3) If the State Government does not convey its previous approval for transfer of such mining lease or prospecting licence-cum-mining lease, as the case may be, within a period of ninety days from the date of receiving such notice, it shall be construed that the State Government has no objection to such transfer:

Provided that the holder of the original mining lease or prospecting licence-cum-mining lease shall intimate to the State Government the consideration payable by the successor-in-interest for the transfer, including the consideration in respect of the prospecting operations already undertaken and the reports and data generated during the operations.

(4) No such transfer of a mining lease or prospecting licence-cum-mining lease, referred to in sub-section (2), shall take place if the State Government, within the notice period and for reasons to be communicated in writing, disapproves the transfer on the ground that the transferee is not eligible as per the provisions of this Act:

Provided that no such transfer of a mining lease or of a prospecting licence-cum-mining lease, shall be made in contravention of any condition subject to which the mining lease or the prospecting licence-cum-mining lease was granted.

(5) All transfers effected under this section shall be subject to the condition that the transferee has accepted all the conditions and liabilities under any law for the time being in force which the transferor was subject to in respect of such a mining lease or prospecting licence-cum-mining lease, as the case may be.

(6) The transfer of mineral concessions shall be allowed only for concessions which are granted through auction.”

14. In section 13 of the principal Act, in sub-section (2), --

Amendment of
section 13

(i) after clause (j), the following clause shall be inserted, namely:-

“(jj) parameters of existence of mineral contents under, clause (a) of sub-section (2) of section 5;”;

(ii) in clause (qq), the word “and” occurring at the end shall be omitted;

(iii) after clause (qq), the following clauses shall be inserted, namely:-

“(qqa) the amount of payment to be made to the District Mineral Foundation under sub-section (4) of section 9B;

(qqb) the manner of usage of funds accrued to the National Mineral Exploration Trust under sub-section (2) of section 9C;

(qqc) the composition and functions of the National Mineral Exploration Trust under sub-section (3) of section 9C;

(qqd) the manner of payment of amount to the National Mineral Exploration Trust under sub-section (4) of section 9C;

(qqe) the terms and conditions subject to which mining leases shall be granted under sub-section (3) of section 10B;

(qqf) the terms and conditions, and procedure, subject to which the auction shall be conducted including the bidding parameters for the selection under sub-section (5) of section 10B;

(qqg) the time limits for various stages in processing applications for grant of mining lease or prospecting licence-cum-mining lease under sections 10B, 11, 11A, 11B, and section 17A, and their renewals;

(qqh) the terms and conditions for grant of non-exclusive reconnaissance permits under sub-section (1) of section 10C;

(qqi) the terms and conditions for grant of prospecting licence-cum-mining leases under sub-section (4) of section 11;

(qqj) the terms and conditions, and procedure, including the bidding parameters for the selection under sub-section (6) of section 11;

(qqk) the amount to be payable by a Government company or corporation, or a joint venture for grant of mining lease under sub-section (2C) of section 17A; and”.

Amendment of
section 15.

15. In section 15 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:-

“(4) Without prejudice to sub-sections (1), (2) and sub-section (3), the State Government may, by notification, make rules for regulating the provisions of this Act for the following, namely:-

(a) the manner in which the District Mineral Foundation shall work under sub-section (2) of section 9B;

(b) the composition and functions of the District Mineral Foundation under sub-section (3) of section 9B; and

(c) the amount of payment to be made to the District Mineral Foundation by concession holders of minor minerals under section 15A.”

16. After section 15 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 15A.

“15A. The State Government may prescribe the payment by all holders of concessions related to minor minerals of amounts to the District Mineral Foundation of the district in which the mining operations are carried on.”

Power of State Government to collect funds for District Mineral Foundation in case of minor minerals.

17. In section 17A of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:-

Amendment of section 17A.

“(2A) Where in exercise of the powers conferred by sub-section (1A) or sub-section (2), the Central Government or the State Government, as the case may be, reserves any area for undertaking prospecting or mining operations, the State Government shall grant prospecting licence or mining lease, as the case may be, in respect of such area to such Government company or corporation:

Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, the State Government shall grant the prospecting licence or mining lease, as the case may be, only after obtaining the previous approval of the Central Government.

(2B) Where the Government company or corporation is desirous of carrying out the prospecting operations or mining operations in a joint venture with other persons, the joint venture partner shall be selected through a competitive process, and such Government company or corporation shall hold more than seventy-four per cent. of the paid up share capital in such joint venture.

(2C) A mining lease granted to a Government company or corporation, or a joint venture, referred to in sub-sections (2A) and (2B), shall be granted on payment of such amount as may be prescribed by the Central Government.”.

Insertion of
new section
20A.

18. After section 20 of the principal Act, the following section shall be inserted, namely:-

Power of
Central
Government to
issue
directions.

“20A. (1) Notwithstanding anything contained in this Act, the Central Government may issue such directions to the State Governments, as may be required for the conservation of mineral resources, or on any policy matter in the national interest, and for the scientific and sustainable development and exploitation of mineral resources.

(2) In particular, and without prejudice to the generality of the foregoing powers, the Central Government may also issue directions in respect of the following matters, namely:-

- (i) improvement in procedure for grant of mineral concessions and to ensure co-ordination among agencies entrusted with according statutory clearances;
- (ii) maintenance of internet-based databases including development and operation of a mining tenement system;
- (iii) implementation and evaluation of sustainable development frameworks;
- (iv) reduction in waste generation and related waste management practices and promotion of recycling of materials;
- (v) minimising and mitigating adverse environmental impacts particularly in respect of ground water, air, ambient noise and land;
- (vi) ensuring minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat;

(vii) promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities; and

(viii) such other matters as may be necessary for the purposes of implementation of this Act.”.

19. In section 21 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:-

Amendment of section 21.

“(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.

(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.”.

20. For section 30 of the principal Act, the following section shall be substituted, namely:-

Substitution of section 30.

“30. The Central Government may, of its own motion or on an application made within the prescribed time by an aggrieved party, -

Power of revision by Central Government.

(a) revise any order made by a State Government or other authority in exercise of the powers conferred on it by or under this Act with respect to any mineral other than a minor mineral; or

(b) where no such order has been made by the State Government or other authority in exercise of the powers conferred on it by or under this Act with respect to any mineral other than a minor mineral

within the time prescribed therefor, pass such order as it may think fit and appropriate in the circumstances:

Provided that in cases covered by clause (b) the Central Government shall, before passing any order under this clause, give an opportunity of being heard or to represent in the matter.”.

Insertion of new sections 30B and 30C. 21. After section 30A of the principal Act, the following sections shall be inserted, namely:-

Constitution of Special Courts.

“30B. (1) The State Government may, for the purposes of providing speedy trial of offences for contravention of the provisions of sub-section (1) or sub-section (1A) of section 4, constitute, by notification, as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

(2) A Special Court shall consist of a Judge who shall be appointed by the State Government with the concurrence of the High Court.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is or has been a District and Sessions Judge.

(4) Any person aggrieved by the order of the Special Court may prefer an appeal to the High Court within a period of sixty days from the date of such order.”.

Special Courts to have powers of Court of Session.

30C. Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973, shall apply to the proceedings before the Special Court and for the purpose of the provisions of this Act, the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a public prosecutor. 2 of 1974.

Amendment of First Schedule.

22. In the principal Act, in the First Schedule, for the figures and brackets “8(2)”, the figures, brackets, letters and word “8(1), 8A(1), 10A, 10B(1), 10C(1), 11(1), 11B, 11C, 12A(1), and 17A(2A)” shall be substituted.

23. In the principal Act, after the Third Schedule, the following Schedule shall be inserted, namely:-

Insertion of a new Schedule.

"THE FOURTH SCHEDULE

[See clause (ea) of section 3]

Notified Minerals

1. Bauxite.
2. Iron ore.
3. Limestone.
4. Manganese ore."

24. (1) If any difficulty arises in giving effect to the provisions of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the said Ordinance, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of the said Ordinance.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Sd/-
Pranab Mukherjee,
President.

Sd/-
Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
C., J. Gothi,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar.

Dated the 3rd February, 2015.

No. RPB/I-2015/Ord.-01-2015/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 6th January, 2015 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 6th January, 2015/Pausa 16, 1936 (Saka)

THE CITIZENSHIP (AMENDMENT) ORDINANCE, 2015

No. 1 OF 2015

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

An Ordinance further to amend the Citizenship Act, 1955.

WHEREAS the Citizenship (Amendment) Bill, 2015 has been introduced in the House of the People and is pending in that House;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1.(1) This Ordinance may be called the Citizenship (Amendment) Ordinance, 2015.

(2) It shall come into force at once.

Short title and
commencement.

Amendment
of section 5.

2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 5,- 57 of 1955.

- (i) in sub-section (1),-
 - (a) in clause (f), for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;
 - (b) in clause (g), for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;
 - (c) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Central Government, if it is satisfied that special circumstances exist, may after recording the circumstances in writing, relax the period of twelve months, specified in clauses (f) and (g) and clause (i) of Explanation 1 of sub-section (1), upto a maximum of thirty days which may be in different breaks."

Substitution
of sections
7A, 7B, 7C
and 7D.

Registration
of Overseas
Citizen of
India
cardholder.

3. In the principal Act, for sections 7A, 7B, 7C and section 7D, the following sections shall be substituted, namely:—

"7A. (1) The Central Government may, subject to such conditions and restrictions, as may be prescribed, on an application made in this behalf, register as Overseas Citizen of India cardholder—

- (a) any person of full age and capacity,—
 - (i) who is a citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or
 - (ii) who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or
 - (iii) who is a citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

- (iv) who is a child or a grand-child or a great grandchild of such a citizen; or
- (b) a person, who is a minor child of a person mentioned in clause(a); or
- (c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or
- (d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section:

Provided that for the eligibility for registration as Overseas Citizen of India cardholder, such spouse shall be subjected to prior security clearance from a competent authority in India:

Provided further that no person, who is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as Overseas Citizen of India cardholder.

(2) The Central Government may, by notification in the Official Gazette, specify the date from which the existing Persons of Indian Origin cardholders shall be deemed to be Overseas Citizens of India cardholders.

Explanation.—For the purposes of sub-section, (2), Persons of Indian Origin cardholders mean the persons registered as such under notification number 26011/4/98 F.I. dated the 19th August, 2002, issued by the Central Government in this regard.

7B. (1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Conferment of rights on Overseas Citizen of India cardholder.

(2) An Overseas Citizen of India cardholder shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a judge of the High Court;

(f) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter;

43 of 1950.

(g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of People or of the Council of States, as the case may be;

43 of 1951.

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 with regard to eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State;

43 of 1951.

(i) for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in such services and posts as the Central Government may by special order in that behalf specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

Renunciation
of Overseas
Citizen of
India card.

7C. (1) If any Overseas Citizen of India cardholder of full age and capacity makes in prescribed manner a declaration renouncing the card registering him as an Overseas Citizen of India cardholder, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an Overseas Citizen of India cardholder.

(2) Where a person ceases to be an Overseas Citizen of India cardholder under sub-section (1), the spouse of foreign origin of that person, who has obtained Overseas Citizen of India card under clause (d) of sub-section (1) of section 7A, and every minor child of that person registered as an Overseas Citizen of India cardholder shall thereupon cease to be an Overseas Citizen of India cardholder.

7D. The Central Government may, by order cancel the registration granted under sub-section (1) of section 7A, if it is satisfied that-

Cancellation of registration as Overseas Citizen of India card holder.

- (a) the registration as an Overseas Citizen of India cardholder was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) the Overseas Citizen of India cardholder has shown disaffection towards the Constitution of India, as by law established; or
- (c) the Overseas Citizen of India cardholder has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or
- (d) the Overseas Citizen of India cardholder has, within five years after registration under sub-section (1) of section 7A, been sentenced to imprisonment for a term of not less than two years; or
- (e) it is necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public; or
- (f) the marriage of an Overseas Citizen of India cardholder, who has obtained such card under clause (d) of sub-section (1) of section 7A,-
 - (i) has been dissolved by a competent court of law or otherwise; or

(ii) has not been dissolved but, during the subsistence of such marriage, he has solemnized marriage with any other person.”.

4. In the principal Act, in section 18, in sub-section (2), after clause (ee), following clauses shall be inserted, namely:- Amendment of section 18.

“(eea) conditions and restrictions subject to which a person may be registered as Overseas Citizen of India cardholder under sub-section (1) of section 7A;

(eeb) manner of making declarations for renunciation of Overseas Citizen of India card under sub-section (1) of section 7C.”.

Amendment
of Third
Schedule.

5. In the Third Schedule to the principal Act, in clause (c), the following proviso shall be inserted, namely:-

“Provided that if the Central Government is satisfied that special circumstances exist, it may, after recording the circumstances in writing, relax the period of twelve months upto a maximum of thirty days which may be in different breaks.”.

Sd/-
Pranab Mukherjee,
President.

Sd/-
Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
C. J. Gothi,
Secretary to Government.

CORRIGENDA

THE COAL MINES (SPECIAL PROVISIONS) SECOND ORDINANCE, 2014

No. 7 of 2014

In the Coal Mines (Special Provisions) Second Ordinance, 2014 (No. 7 of 2014) published in the Gazette of India, Extraordinary, Part II, Section I, dated 26th December, 2014, issue No. 44,—

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Government Central Press, Gandhinagar.



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The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar.

Dated the 3rd February, 2015.

No. RPB/2-2015/Ord.-02-2015/E:- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part I Section 1, dated the 7th January, 2015 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 7th January, 2015/Pausa 17, 1936 (Saka)

THE MOTOR VEHICLES (AMENDMENT) ORDINANCE, 2015

No. 2 OF 2015

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

An Ordinance further to amend the Motor Vehicles Act, 1988.

WHEREAS the Motor Vehicles (Amendment) Bill, 2014 has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Motor Vehicles (Amendment) Ordinance, 2015. Short title and commencement.

(2) It shall come into force at once.

Insertion of
new section
2A.

2. In the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), after section 2, the following section shall be inserted, namely:—

E-card and
e-rickshaw.

“2A (1) Save as otherwise provided in the proviso to sub-section (1) of section 7 and sub-section (10) of section 9, the provisions of this Act shall apply to e-cart and e-rickshaw.

(2) For the purposes of this section, “e-cart or e-rickshaw” means a special purpose battery powered vehicle of power not exceeding 4000 watts having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.”

Amendment
of section 7.

3. In the principal Act, in section 7, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.”

Amendment
of section 9.

4. In the principal Act, in section 9, after sub-section (9), the following sub-section shall be inserted, namely:—

“(10) Notwithstanding anything contained in this section, the driving licence to drive e-cart or e-rickshaw shall be issued in such manner and subject to such conditions as may be prescribed.”

Amendment
of section 27.

5. In this principal Act, in section 27,—

(i) clause (a) shall be renumbered as clause (aa) thereof and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

“(a) specifications relating to e-cart and e-rickshaw under sub-section (2) of section 2A;”;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(ff) the manner and the conditions subject to which the driving license may be issued under sub-section (10) of section 9;”.

Sd/-

Pranab Mukherjee,
President.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY PUBLISHED BY AUTHORITY

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5th February, 2015.

No. RPB/220-2015/Act-17-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 12th May, 2014, Vaishakh 22, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 9th May, 2014 is hereby published for general information :-

THE WHISTLE BLOWERS PROTECTION ACT, 2011

AN

(Act No. 17 of 2014)

ACT

[9th May, 2014]

to establish a mechanism to receive complaints relating to disclosure on any allegation of corruption or wilful misuse of power or wilful misuse of discretion against any public servant and to inquire or cause an inquiry into such disclosure and to provide adequate safeguards against victimisation of the person making such complaint and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Whistle Blowers Protection Act, 2011.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. The provisions of this Act shall not apply to the armed forces of the Union, being the Special Protection Group constituted under the Special Protection Group Act, 1988.

Short title,
extent and
commence-
ment.

Provisions of this
Act not to apply
to Special
Protection
Group.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Central Vigilance Commission" means the Commission constituted under sub-section (1) of section 3 of the Central Vigilance Commission Act, 2003;

45 of 2003.

(b) "Competent Authority" means—

(i) in relation to a Member of the Union Council of Ministers, the Prime Minister;

(ii) in relation to a Member of Parliament, other than a Minister, the Chairman of the Council of States if such Member is a Member of the Council of States or the Speaker of the House of the People if such Member is a Member of the House of the People, as the case may be;

(iii) in relation to a Member of the Council of Ministers in a State or Union territory, the Chief Minister of the State or Union territory, as the case may be;

(iv) in relation to a Member of Legislative Council or Legislative Assembly of a State or Union territory, other than a Minister, the Chairman of the Legislative Council if such Member is a Member of the Council or the Speaker of the Legislative Assembly if such Member is a Member of the Assembly, as the case may be;

(v) in relation to—

(A) any Judge (except a Judge of the Supreme Court or of a High Court) including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions; or

(B) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court; or

(C) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority,

the High Court;

(vi) in relation to—

(A) any person in the service or pay of the Central Government or remunerated by the Central Government by way of fees or commission for the performance of any public duty [except Ministers, Members of Parliament and members or persons referred to in clause (a) or clause (b) or clause (c) or clause (d) of article 33 of the Constitution], or in the service or pay of a society or local authority or any corporation established by or under any Central Act, or an authority or a body owned or controlled or aided by the Central Government or a Government company as defined in section 617 of the Companies Act, 1956, owned or controlled by the Central Government; or

1 of 1956.

(B) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election in relation to elections to Parliament or a State Legislature; or

(C) any person who holds an office by virtue of which he is authorised or required to perform any public duty (except Ministers and Members of Parliament); or

1 of 1956.

(D) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or from any corporation established by or under a Central Act, or any authority or body or a Government company as defined in section 617 of the Companies Act, 1956 owned or controlled or aided by the Central Government; or

(E) any person who is a chairman, member or employee of any Central Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board; or

(F) any person who is a Vice-Chancellor or member of any governing body, professor, associate professor, assistant professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University established by a Central Act or established or controlled or funded by the Central Government or any person whose services have been availed of by such University or any such other public authority in connection with holding or conducting examinations; or

(G) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any local or other public authority,

the Central Vigilance Commission or any other authority, as the Central Government may, by notification in the Official Gazette, specify in this behalf under this Act;

(vii) in relation to—

(A) any person in the service or pay of the State Government or remunerated by the State Government by way of fees or commission, for the performance of any public duty (except Ministers, Members of Legislative Council or Legislative Assembly of the State), or in the service or pay of a society or local authority or any corporation established by or under a Provincial or State Act, or an authority or a body owned or controlled or aided by the State Government or a Government company as defined in section 617 of the Companies Act, 1956, owned or controlled by the State Government; or

1 of 1956.

(B) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election in relation to municipality or Panchayats or other local body in the State; or

(C) any person who holds an office by virtue of which he is authorised or required to perform any public duty in relation to the affairs of the State Government (except Ministers and Members of Legislative Council or Legislative Assembly of the State); or

(D) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the State Government or from any corporation established by or under a Provincial or State Act, or any authority or body or a Government company as defined in section 617 of the Companies Act, 1956 owned or controlled or aided by the State Government; or

1 of 1956.

(E) any person who is a chairman, member or employee of any State Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board; or

(F) any person who is a Vice-Chancellor or member of any governing body, professor, associate professor, assistant professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University established by a Provincial or State Act or established or controlled or funded by the State Government and any person whose services have been availed of by such University or any such other public authority in connection with holding or conducting examinations; or

(G) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the State Government or any local or other public authority,

the State Vigilance Commission, if any, or any officer of the State Government or any other authority, as the State Government may, by notification in the Official Gazette, specify in this behalf under this Act;

(viii) in relation to members or persons referred to in clause (a) or clause (b) or clause (c) or clause (d) of article 33 of the Constitution, any authority or authorities as the Central Government or the State Government, as the case may be, having jurisdiction in respect thereof, may, by notification in the Official Gazette, specify in this behalf under this Act;

(c) "complainant" means any person who makes a complaint relating to disclosure under this Act;

(d) "disclosure" means a complaint relating to,—

(i) an attempt to commit or commission of an offence under the Prevention of Corruption Act, 1988;

49 of 1988.

(ii) wilful misuse of power or wilful misuse of discretion by virtue of which demonstrable loss is caused to the Government or demonstrable wrongful gain accrues to the public servant or to any third party;

(iii) attempt to commit or commission of a criminal offence by a public servant,

made in writing or by electronic mail or electronic mail message, against the public servant and includes public interest disclosure referred to in sub-section (2) of section 4;

(e) "electronic mail" or "electronic mail message" means a message or information created or transmitted or received on any computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message;

(f) "Government company" means a company referred to in section 617 of the Companies Act, 1956;

1 of 1956.

(g) "notification" means a notification published in the Gazette of India or, as the case may be, the Official Gazette of a State;

(h) "public authority" means any authority, body or institution falling within the jurisdiction of the Competent Authority;

49 of 1988.

(i) "public servant" shall have the same meaning as assigned to it in clause (c) of section 2 of the Prevention of Corruption Act, 1988 but shall not include a Judge of the Supreme Court or a Judge of a High Court;

(j) "prescribed" means prescribed by rules made by the Central Government and the State Government, as the case may be, under this Act;

(k) "regulations" means the regulations made by the Competent Authority under this Act.

CHAPTER II

PUBLIC INTEREST DISCLOSURE

19 of 1923.

4. (1) Notwithstanding anything contained in the provisions of the Official Secrets Act, 1923, any public servant or any other person including any non-governmental organisation, may make a public interest disclosure before the Competent Authority.

Requirement of public interest disclosure.

(2) Any disclosure made under this Act shall be treated as public interest disclosure for the purposes of this Act and shall be made before the Competent Authority and the complainant making the disclosure shall, on behalf of the Competent Authority, be received by such authority as may be specified by regulations made by the Competent Authority.

(3) Every disclosure shall be made in good faith and the person making disclosure shall make a personal declaration stating that he reasonably believes that the information disclosed by him and allegation contained therein is substantially true.

(4) Every disclosure shall be made in writing or by electronic mail or electronic mail message in accordance with the procedure as may be prescribed and contain full particulars and be accompanied by supporting documents, or other materials, if any.

(5) The Competent Authority may, if it deems fit, call for further information or particulars from the person making the disclosure.

(6) No action shall be taken on public interest disclosure by the Competent Authority if the disclosure does not indicate the identity of the complainant or public servant making public interest disclosure or the identity of the complainant or public servant is found incorrect or false.

CHAPTER III

INQUIRY IN RELATION TO PUBLIC INTEREST DISCLOSURE

5. (1) Subject to the provisions of this Act, the Competent Authority shall, on receipt of a public interest disclosure under section 4,—

Powers and functions of Competent Authority on receipt of public interest disclosure.

(a) ascertain from the complainant or the public servant whether he was the person or the public servant who made the disclosure or not;

(b) conceal the identity of the complainant unless the complainant himself has revealed his identity to any other office or authority while making public interest disclosure or in his complaint or otherwise.

(2) The Competent Authority shall, upon receipt of the complaint and concealing the identity of the complainant, or the public servant in the first instance, make discreet inquiry, in such manner and within such time as may be prescribed, to ascertain whether there is any basis for proceeding further to investigate the disclosure.

(3) If the Competent Authority, either as a result of the discreet inquiry, or on the basis of the disclosure itself without any inquiry, is of the opinion that the disclosure requires to be investigated, it shall seek comments or explanation or report from the Head of the Department of the organisation or authority, board or corporation concerned or office concerned within such time as may be specified by it.

(4) While seeking comments or explanations or report referred to in sub-section (3), the Competent Authority shall not reveal the identity of the complainant or the public servant and direct the Head of the Department of the organisation concerned or office concerned not to reveal the identity of the complainant or public servant:

Provided that if the Competent Authority is of the opinion that it has, for the purpose of seeking comments or explanation or report from them under sub-section (3) on the public disclosure, become necessary to reveal the identity of the complainant or public servant to the Head of the Department of the organisation or authority, board or corporation concerned or office concerned, the Competent Authority may, with the prior written consent of the complainant or public servant, reveal the identity of the complainant or public servant to such Head of the Department of the organisation or authority, board or corporation concerned or office concerned for the said purpose:

Provided further that in case the complainant or public servant does not agree to his name being revealed to the Head of the Department, in that case, the complainant or public servant, as the case may be, shall provide all documentary evidence in support of his complaint to the Competent Authority.

(5) The Head of the organisation or office concerned shall not directly or indirectly reveal the identity of the complainant or public servant who made the disclosure.

(6) The Competent Authority, if after conducting an inquiry, is of the opinion that—

(a) the facts and allegations contained in the disclosure are frivolous or vexatious;

or

(b) there are no sufficient grounds for proceeding with the inquiry,

it shall close the matter.

(7) After receipt of the comments or explanations or report referred to in sub-section (3), if the Competent Authority is of the opinion that such comments or explanations or report reveals either wilful misuse of power or wilful misuse of discretion or substantiates allegations of corruption, it shall recommend to the public authority to take any one or more of the following measures, namely:—

(i) initiating proceedings against the concerned public servant;

(ii) taking appropriate administrative steps for redressing the loss caused to the Government as a result of the corrupt practice or misuse of office or misuse of discretion, as the case may be;

(iii) recommend to the appropriate authority or agency for initiation of criminal proceedings under the relevant laws for the time being in force, if so warranted by the facts and circumstances of the case;

(iv) recommend for taking of corrective measures;

(v) take any other measures not falling under clauses (i) to (iv) which may be necessary for the purpose of this Act.

(8) The public authority to whom a recommendation is made under sub-section (7) shall take a decision on such recommendation within three months of receipt of such recommendation, or within such extended period not exceeding three months, as the Competent Authority may allow on a request made by the public authority:

Provided that in case the public authority does not agree with the recommendation of the Competent Authority, it shall record the reasons for such disagreement.

(9) The Competent Authority shall, after making an inquiry, inform the complainant or public servant about the action taken on the complaint and the final outcome thereof:

Provided that in a case where, after making an inquiry, the Competent Authority decides to close the case, it shall, before passing the order for closure of the case, provide an opportunity of being heard to the complainant, if the complainant so desires.

6. (1) If any matter specified or an issue raised in a disclosure has been determined by a Court or Tribunal authorised to determine the issue, after consideration of the matters specified or issue raised in the disclosure, the Competent Authority shall not take notice of the disclosure to the extent that the disclosure seeks to reopen such issue.

Matters not to be inquired by Competent Authority.

(2) The Competent Authority shall not entertain or inquire into any disclosure—

37 of 1850.

(a) in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850; or

60 of 1952.

(b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952.

(3) The Competent Authority shall not investigate, any disclosure involving an allegation, if the complaint is made after the expiry of seven years from the date on which the action complained against is alleged to have taken place.

(4) Nothing in this Act shall be construed as empowering the Competent Authority to question, in any inquiry under this Act, any *bona fide* action or *bona fide* discretion (including administrative or statutory discretion) exercised in discharge of duty by the employee.

CHAPTER IV

POWERS OF COMPETENT AUTHORITY

7. (1) Without prejudice to the powers conferred upon the Competent Authority under any other law for the time being in force, the Competent Authority, may require, for the purpose of any inquiry any public servant or any other person who in its opinion shall be able to furnish information or produce documents relevant to the inquiry or assist in the inquiry, to furnish any such information or produce any such document as may be necessary for the said purpose.

Powers of Competent Authority.

5 of 1908.

(2) For the purpose of any such inquiry (including the preliminary inquiry), the Competent Authority shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) such other matters as may be prescribed.

2 of 1974.

(3) The Competent Authority shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Competent Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

19 of 1923.

(4) Subject to the provisions of section 8, no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the Government or any public servant, whether imposed by the Official Secrets Act, 1923 or any other law for the time being in force, shall be claimed by any public servant in the proceedings before the Competent Authority or any person or agency authorised by it in writing and the Government

or any public servant shall not be entitled in relation to any such inquiry, to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rules made thereunder:

Provided that the Competent Authority, while exercising such powers of the Civil Court, shall take steps as necessary to ensure that the identity of the person making complaint has not been revealed or compromised.

Certain
matters
exempt from
disclosure.

8. (1) No person shall be required or be authorised by virtue of provisions contained in this Act to furnish any such information or answer any such question or produce any document or information or render any other assistance in the inquiry under this Act if such question or document or information is likely to prejudicially affect the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign State, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence,—

(a) as might involve the disclosure of proceedings of the Cabinet of the Union Government or any Committee of the Cabinet;

(b) as might involve the disclosure of proceedings of the Cabinet of the State Government or any Committee of that Cabinet,

and for the purpose of this sub-section, a certificate issued by the Secretary to the Government of India or the Secretary to the State Government, as the case may be, or, any authority so authorised by the Central or State Government certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b), shall be binding and conclusive.

(2) Subject to the provisions of sub-section (1), no person shall be compelled for the purposes of inquiry under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a court.

Superinten-
dence of
Competent
Authority
over
appropriate
machinery.

9. (1) Every public authority shall, for the purposes of dealing or inquiry into the disclosures sent to it under sub-section (3) of section 5, create an appropriate machinery for the said purpose.

(2) The Competent Authority shall exercise superintendence over the working of machinery created under sub-section (1) for the purposes of dealing or inquiry into the disclosures and give such directions for its proper functioning, from time to time, as it may consider necessary.

Competent
Authority to
take
assistance of
police
authorities,
etc., in certain
cases.

10. For the purpose of making discreet inquiry or obtaining information from the organisation concerned, the Competent Authority shall be authorised to take assistance of the Delhi Special Police Establishment or the police authorities, or any other authority as may be considered necessary, to render all assistance to complete the inquiry within the prescribed time pursuant to the disclosure received by the Competent Authority.

CHAPTER V

PROTECTION TO THE PERSONS MAKING DISCLOSURE

Safeguards
against
victimisation.

11. (1) The Central Government shall ensure that no person or a public servant who has made a disclosure under this Act is victimised by initiation of any proceedings or otherwise merely on the ground that such person or a public servant had made a disclosure or rendered assistance in inquiry under this Act.

(2) If any person is being victimised or likely to be victimised on the ground that he had filed a complaint or made disclosure or rendered assistance in inquiry under this Act, he may file an application before the Competent Authority seeking redress in the matter, and such authority shall take such action, as deemed fit and may give suitable directions to the concerned public servant or the public authority, as the case may be, to protect such person from being victimised or avoid his victimisation:

Provided that the Competent Authority shall, before giving any such direction to the public authority or public servant, give an opportunity of hearing to the complainant and the public authority or public servant, as the case may be:

Provided further that in any such hearing, the burden of proof that the alleged action on the part of the public authority is not victimisation, shall lie on the public authority.

(3) Every direction given under sub-section (2) by the Competent Authority shall be binding upon the public servant or the public authority against whom the allegation of victimisation has been proved.

(4) Notwithstanding anything contained in any other law for the time being in force, the power to give directions under sub-section (2), in relation to a public servant, shall include the power to direct the restoration of the public servant making the disclosure, to the status *quo ante*.

(5) Any person who wilfully does not comply with the direction of the Competent Authority under sub-section (2), shall be liable to a penalty which may extend up to thirty thousand rupees.

12. If the Competent Authority either on the application of the complainant, or witnesses, or on the basis of information gathered, is of the opinion that either the complainant or public servant or the witnesses or any person rendering assistance for inquiry under this Act need protection, the Competent Authority shall issue appropriate directions to the concerned Government authorities (including police) which shall take necessary steps, through its agencies, to protect such complainant or public servant or persons concerned.

Protection of witnesses and other persons.

13. The Competent Authority shall, notwithstanding any law for the time being in force, conceal, as required under this Act, the identity of the complainant and the documents or information furnished by him, for the purposes of enquiry under this Act, unless so decided otherwise by the Competent Authority itself or it became necessary to reveal or produce the same by virtue of the order of the court.

Protection of identity of complainant.

14. The Competent Authority, at any time after the making of disclosure by the complainant or public servant, if it is of the opinion that any corrupt practice required to be stopped during the continuation of any inquiry for the said purpose may pass such interim orders as it may deem fit, to prevent the immediate stoppage of such practice.

Power to pass interim orders.

CHAPTER VI

OFFENCES AND PENALTIES

15. Where the Competent Authority, at the time of examining the report or explanations or report referred to in sub-section (3) of section 5 on the complaint submitted by organisation or official concerned, is of the opinion that the organisation or official concerned, without any reasonable cause, has not furnished the report within the specified time or *mala fide*ly refused to submit the report or knowingly given incomplete, incorrect or misleading or false report or destroyed record or information which was the subject of the disclosure or obstructed in any manner in furnishing the report, it shall impose—

Penalty for furnishing incomplete or incorrect or misleading comments or explanation or report.

(a) where the organisation or official concerned, without any reasonable cause, has not furnished the report within the specified time or *mala fide*ly refused to submit the report, a penalty which may extend to two hundred fifty rupees for each day till report is furnished, so, however, the total amount of such penalty shall not exceed fifty thousand rupees;

(b) where the organisation or official concerned, has knowingly given incomplete, incorrect or misleading or false report or destroyed record or information which was the subject of the disclosure or obstructed in any manner the furnishing of the report, a penalty which may extend to fifty thousand rupees:

Provided that no penalty shall be imposed against any person unless he has been given an opportunity of being heard.

16. Any person, who negligently or *mala fide*ly reveals the identity of a complainant shall, without prejudice to the other provisions of this Act, be punishable with imprisonment for a term which may extend up to three years and also to fine which may extend up to fifty thousand rupees.

Penalty for revealing identity of complainant.

Punishment
for false or
frivolous
disclosure.

17. Any person who makes any disclosure *mala fide* and knowingly that it was incorrect or false or misleading shall be punishable with imprisonment for a term which may extend up to two years and also to fine which may extend up to thirty thousand rupees.

Punishment to
Head of
Department
in certain
cases.

18. (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by
companies.

19. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Appeal to
High Court.

20. Any person aggrieved by any order of the Competent Authority relating to imposition of penalty under section 14 or section 15 or section 16 may prefer an appeal to the High Court within a period of sixty days from the date of the order appealed against:

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

Explanation.—For the purposes of this section, the "High Court" means the High Court within whose jurisdiction the cause of action arose.

Bar of
jurisdiction.

21. No Civil Court shall have jurisdiction in respect of any matter which the Competent Authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Court to take
cognizance.

22. (1) No court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Competent Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

CHAPTER VII

MISCELLANEOUS

23. (1) The Competent Authority shall prepare a consolidated annual report of the performance of its activities in such form as may be prescribed and forward it to the Central Government or State Government, as the case may be.

Report on disclosures.

(2) On receipt of the annual report under sub-section (1), the Central Government or State Government, as the case may be, shall cause a copy thereof to be laid before each House of Parliament, or the State Legislature, as the case may be:

Provided that where any other law for the time being in force provides preparing of such annual report by the Competent Authority, then the said annual report shall contain a separate part on the performance of activities under this Act by the Competent Authority.

24. No suit, prosecution or other legal proceedings shall lie against the Competent Authority or against any officer, employees, agency or person acting on its behalf, in respect of anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

25. (1) The Central Government may, by notification in the official Gazette, make rules for the purpose of carrying out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure for disclosure by writing or appropriate electronic means under sub-section (4) of section 4;

(b) the manner in which and the time within which the discreet inquiry shall be made by the Competent Authority under sub-section (2) of section 5;

(c) the additional matter in respect of which the Competent Authority may exercise the powers of a Civil Court under clause (f) of sub-section (2) of section 7;

(d) the form of annual report under sub-section (1) of section 23;

(e) any other matter which is required to be, or may be, prescribed.

26. The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

Power of State Government to make rules.

27. The Competent Authority may, with the previous approval of the Central Government or the State Government, as the case may be, by notification in the Official Gazette, make regulations not inconsistent with the provisions of the Act and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.

Power to make regulations.

28. Every notification issued and every rule made by the Central Government and every regulation made by the Competent Authority under this Act shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or the regulation, or both Houses agree that the notification or the rule or the regulation should not be made, the notification or the rule or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

Notification and rules to be laid before Parliament.

Notification
issued and
rules made by
State
Government to
be laid before
State
Legislature.

29. Every notification issued by a State Government and every rule made by a State Government and every regulation made by the Competent Authority under this Act shall be laid, as soon as may be after it is issued, before the State Legislature.

Power to
remove
difficulties.

30. (1) If any difficulty arises in giving effect to the provisions of the Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal and
savings.

31. (1) The Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No. 371/12/2002-AVD-III dated the 21st April, 2004 as amended *vide* Resolution of even number, dated the 29th April, 2004 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Resolution be deemed to have been done or taken under this Act.

Sd/-

P. K. Malhotra,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th February, 2015.

No. RPB/219-2015/Act-18-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th July, 2014, Aashadh 27, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 17th July, 2014 is hereby published for general information :-

THE NATIONAL INSTITUTE OF DESIGN ACT, 2014

AN

(Act No. 18 of 2014)

ACT

[17th July, 2014.]

to declare the institution known as the National Institute of Design, Ahmedabad, to be an institution of national importance for the promotion of quality and excellence in education, research and training in all disciplines relating to Design and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Institute of Design Act, 2014.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. Whereas the objects of the institution known as the National Institute of Design, Ahmedabad, are such as to make it the institution of national importance, it is hereby declared that the National Institute of Design, Ahmedabad is an institution of national importance.

3. In this Act, unless the context otherwise requires,—

(a) “Chairperson” means the Chairperson of the Governing Council nominated under clause (a) of section 11;

Short title
and
commencement

Declaration
National
Institute of
Design,
Ahmedabad,
an institution
of national
importance.

Definitions.

(b) "Dean", in relation to any Institute campus, means the Dean of such Institute campus;

(c) "design" means a rational, logical and sequential innovative process for the purpose of transferring culture to viable products and services and for providing a competitive edge to products and services, and includes industrial design, communication design, textile and apparel design, lifestyle design, experiential design, exhibition design, craft and traditional sector design;

(d) "Director" means Director of the Institute, as appointed under section 18;

(e) "Fund" means the Fund of the Institute maintained under section 23;

(f) "Governing Council" means the Governing Council of the Institute, as constituted under section 11;

(g) "Institute" means the National Institute of Design, Ahmedabad, incorporated under section 4;

(h) "Institute campus" means the campus of the Institute located at Bengaluru in the State of Karnataka and Gandhinagar in the State of Gujarat, or such other campus as may be established by the Institute at any place within India or outside India;

(i) "notification" means a notification published in the Official Gazette;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "Registrar" means Registrar of the Institute;

(l) "Senate" means the Senate of the Institute;

(m) "Society" means the National Institute of Design, Ahmedabad, registered as a society under the Societies Registration Act, 1860;

21 of 1860.

(n) "Statutes" and "Ordinances" mean the Statutes and the Ordinances of the Institute made under this Act.

CHAPTER II

THE INSTITUTE

Incorporation
of the
Institute.

4. (1) The National Institute of Design, Ahmedabad, shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and shall, by that name, sue or be sued.

(2) The body corporate constituting the Institute shall consist of a Chairperson, a Director and other members of the Governing Council for the time being of the Institute.

(3) The headquarters of the Institute shall be in the district of Ahmedabad in the State of Gujarat.

(4) The Institute may establish an Institute campus at such other place within India or outside India, as it may deem fit:

Provided that each campus of the National Institute of Design, Ahmedabad, established before the commencement of this Act, at Bengaluru in the State of Karnataka and Gandhinagar in the State of Gujarat, shall be deemed to be the Institute campus.

Effect of
incorporation
of the
Institute.

5. On and from the date of commencement of this Act,—

(a) any reference to the Society in any law (other than this Act) or in any contract or other instrument shall be deemed as a reference to the Institute incorporated under this Act;

(b) all property, movable and immovable of, or belonging to, the Society, shall vest in the Institute;

(c) all the rights and liabilities of the Society shall be transferred to, and be, the rights and liabilities of, the Institute;

(d) any reference to any campus of the Institute, established before the commencement of this Act, shall be deemed as a reference to that Institute campus;

(e) every person employed by the Society, immediately before such commencement, shall hold his office or service in the Institute including the Institute campuses, located at Bengaluru in the State of Karnataka and at Gandhinagar in the State of Gujarat, by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same, if this Act had not been enacted, and shall continue to be so, unless and until his employment is terminated or until such tenure, remuneration, terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employee and one month's remuneration in the case of other employee.

6. (1) Subject to the provisions of this Act, the Institute shall exercise the following powers and perform the following duties, namely:—

Powers of
Institute.

(a) to provide for instructions, research and training in the areas or disciplines relating to design and to nurture and promote quality and excellence thereof in such areas or disciplines;

(b) to develop courses leading to graduate and post-graduate degrees, doctoral and post-doctoral distinctions and research in all areas or disciplines relating to design;

(c) to hold examinations and grant degrees, and diplomas and other academic distinctions or titles in the areas or disciplines relating to design;

(d) to confer honorary degrees, awards or other distinctions in the areas or disciplines relating to design;

(e) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(f) to fix, demand and receive fees and other charges;

(g) to establish, maintain and manage halls and hostels for the residence of the students;

(h) to supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(i) to institute academic and other posts and to make appointments thereto (except in the case of the Director);

(j) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(k) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of faculty members and scholars and generally in such manner as may be conducive to their common objective;

(l) to act as a nucleus for interaction between academia and industry by encouraging exchange of designers and other technical staff between the Institute and the industry and by undertaking sponsored and funded research as well as consultancy projects by the Institute;

(m) to establish, equip and maintain workshops or laboratories or studios with modern machinery and equipments in order to undertake scientific and technological research for creating good designs for the production of goods and services and to provide funds for such works and for payment to any person or persons engaged in service, training and research work whether in such workshop or laboratory or studio;

(n) to acquire any patent or licence relating to such invention, improvement or design or standardisation marks whether for general or specific purposes;

(o) to undertake consultancy in the areas or disciplines relating to design;

(p) to deal with any property belonging to, or vested in, the Institute, in such manner as the Institute may deem fit for advancing the objects of the Institute;

(q) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from testators, donors or transferors, as the case may be;

(r) to encourage and improve education of persons who are engaged or are likely to be engaged in the service, training or research activities by grant of loans, scholarships or other monetary assistance or otherwise;

(s) to prepare, print, publish, issue, acquire and circulate books, papers, periodicals, exhibits, films, slides, gadgets, circulars and other literary undertakings, dealing with or having a bearing upon the subject of industrial design and allied fields;

(t) to establish, form and maintain museums, libraries and collections of literature and films, slides, photographs, prototypes and other information relating to design and allied subjects;

(u) to nominate designers, engineers (mechanical or electrical or civil), architects, craftsmen, technicians or investigators to study in India or outside India in regard to the service, training and research in such fields as the Institute may think fit;

(v) to retain or employ skilled professional, technical advisers, consultants, workers or craftsmen in connection with the objects of the Institute;

(w) to encourage artisans, technicians and others with inventive skill to work out details and specifications of processes, appliances and gadgets by giving awards, financial or technical assistance;

(x) to construct buildings and alter, extend, improve, repair, enlarge or modify and to provide and equip the same with light, water, drainage, furniture, fittings and all other accessories;

(y) to borrow and raise moneys, with or without security or on the security of a mortgage, charge, or hypothecation or pledge of any of the movable or immovable properties belonging to the Institute or in any other manner;

(z) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

(2) Notwithstanding anything contained in sub-section (1), the Institute shall not dispose of in any manner any immovable property without the prior approval of the Visitor.

7. (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

Institute be
open to all
races, creeds
and classes.

(2) No bequest, donation or transfer of any property shall be accepted by the Institute, which in the opinion of the Governing Council involves conditions or obligations opposed to the spirit and objects of the Institute.

8. All teaching at the Institute and the Institute campuses shall be conducted by or in the name of the Institute in accordance with the Statutes and the Ordinances made in this behalf.

Teaching at
Institute.

9. (1) The President of India shall be the Visitor of the Institute.

Visitor.

(2) The Visitor may appoint one or more persons to review the work and progress of the Institute or any Institute campus and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

10. The following shall be the authorities of the Institute, namely:—

Authorities
of Institute.

(a) the Governing Council,

(b) a Senate, and

(c) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

11. The Governing Council shall consist of the following members, namely:—

Governing
Council.

(a) a Chairperson, who shall be an eminent academician, scientist or technologist or professional or industrialist, to be nominated by the Visitor;

(b) the Director, *ex officio*;

(c) the Financial Adviser in the Ministry or Department of the Government of India dealing with the National Institute of Design, *ex officio*;

(d) the Joint Secretary, in the Ministry or Department in the Government of India dealing with the National Institute of Design, *ex officio*;

(e) one representative of the Ministry or Department of the Government of India not below the rank of Joint Secretary dealing with Higher Education, to be nominated by the Secretary of that Ministry or Department, *ex officio*;

(f) one representative of the Ministry or Department of the Government of India not below the rank of Joint Secretary dealing with Information Technology to be nominated by the Secretary of that Ministry or Department, *ex officio*;

(g) one representative from the State in which the Institute campus is located, to be nominated by that State Government;

(h) five professionals, one each from the fields of architecture, engineering, fine arts, mass media and technology, to be nominated by the Central Government;

(i) an outstanding Designer, to be nominated by the Visitor in consultation with the Central Government;

(j) a management expert, to be nominated by the Chairperson;

(k) a representative of the Micro, Small and Medium Enterprises, to be nominated by the Central Government;

(l) three persons to be nominated by the Senate from amongst persons recommended by companies, firms or individuals who have provided financial assistance or contribution to the Institute:

Provided that the threshold of financial assistance or contribution and other requirements to qualify for such nomination shall be such as may be provided for in the Statutes; and

(m) Dean of each Institute campus, *ex officio*.

Term of office of, vacancies among, and allowances payable to Chairperson and other members of Governing Council.

12. (1) The term of office of the Chairperson or any other member of the Governing Council (other than an *ex officio* member) shall be three years from the date of his nomination.

(2) Save as otherwise provided in this section, the term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member of the Governing Council nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(4) Notwithstanding anything contained in this section, an outgoing member shall, unless the Governing Council otherwise directs, continue in office until another person is nominated as a member in his place.

(5) The members of the Governing Council shall be entitled to such allowances, if any, from the Institute as may be provided for in the Statutes but no member other than the persons referred to in clauses (b) and (m) of section 11 shall be entitled to any salary by reason of this sub-section.

Meeting of Governing Council.

13. The Governing Council shall meet at least four times in a year at such place and time and observe such rules of procedure in regard to the transaction of business at its meetings, as may be determined by the Governing Council.

Powers and functions of Governing Council.

14. (1) Subject to the provisions of this Act, the Governing Council shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers of the Institute not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

(2) Without prejudice to the provisions of sub-section (1), the Governing Council shall—

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) take decision on the establishment of new Institute campus at any place in India or outside India;

(c) institute courses of study at the Institute;

(d) institute academic and other posts and to make appointments thereto;

(e) make Statutes;

(f) consider and modify or cancel Ordinances;

(g) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute including each of the Institute campuses for the next financial year, as it thinks fit and submit them to the Central Government together with a statement of its development plans; and

(h) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

(3) The Governing Council shall have power to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(4) The Governing Council shall have the power to enter into arrangements with the Central Government, State Governments and other public or private organisations or

individuals in India or outside India for securing and accepting endowments, grants, donations or gifts to the Institute on mutually agreed terms and conditions:

Provided that the conditions of such grant, donation or gift, if any, shall not be inconsistent or in conflict with the nature or objects of the Institute and the provisions of this Act.

(5) The Governing Council shall have the power to take over and acquire by purchase, gift or otherwise from Government and other public bodies or private individuals willing to transfer movable and immovable properties, endowments or other funds together with any attendant obligations and engagements not inconsistent with the provisions of this Act.

(6) The Governing Council may by specific resolution to this effect delegate to the Chairperson such of its powers for the conduct of business, as it may deem necessary.

15. The Senate of the Institute shall consist of the following persons, namely:—

Senate.

(a) the Director, *ex officio*, who shall be the Chairman of the Senate;

(b) Dean of each Institute campus, *ex officio*;

(c) Senior Professors of the Institute and of the Institute campuses;

(d) three persons, not being employees of the Institute, to be nominated by the Chairperson in consultation with the Director, from amongst educationists of repute, one each from the fields of science, engineering and humanities and at least one of them shall be a woman;

(e) one alumnus of the Institute to be nominated by the Chairperson in consultation with the Director; and

(f) such other members of the staff as may be laid down in the Statutes.

16. Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of the Institute shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

Functions of Senate.

17. (1) The Chairperson shall ordinarily preside at the meetings of the Governing Council and at the convocations of the Institute.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Governing Council are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

Functions, powers and duties of Chairperson.

18. (1) The Director of the Institute shall be appointed by the Central Government for a tenure of five years in such manner and on such terms and conditions of service as may be prescribed.

Director.

(2) The Director shall be appointed on the recommendations of the Selection Committee constituted by the Central Government.

(3) The Director shall be the principal executive officer of the Institute and shall be responsible for—

(a) proper administration of the Institute and for imparting of instructions and maintenance of discipline therein;

(b) co-ordination of activities of all the Institute campuses;

(c) examining the development plans of the Institute and each Institute campus and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans; and

(d) examining the annual budget estimates of the Institute and each Institute campus and to recommend to the Central Government the allocation of funds for that purpose.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act, Statutes and Ordinances.

(5) The Director shall submit annual reports and accounts to the Governing Council.

(6) The Central Government shall have the power to remove the Director before expiry of his tenure, if it considers it appropriate to do so.

Dean.

19. (1) The Dean of each Institute campus shall be appointed on such terms and conditions as may be laid down by the Statutes and shall exercise such powers and perform such duties as may be assigned to him by this Act or the Statutes or by the Director.

(2) Without prejudice to the provisions of sub-section (1), the Dean of each Institute campus shall look after all academic, administrative, research and other activities of the Institute campus in consultation with the Director.

Registrar.

20. (1) The Registrar of the Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Governing Council shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Governing Council, the Senate and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

Powers and duties of other authorities and officers.

21. The powers and duties of authorities and officers, other than those hereinbefore mentioned, shall be determined by the Statutes.

Grants by Central Government.

22. For the purpose of enabling the Institute to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit.

Fund of Institute.

23. (1) The Institute shall maintain a Fund to which shall be credited—

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Setting up of Endowment Fund.

24. Notwithstanding anything contained in section 23, the Central Government may direct the Institute to—

(a) set up an Endowment Fund and any other Fund for specified purpose; and

(b) transfer money from its Fund to Endowment Fund or any other Fund.

25. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form as may be prescribed, in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India, generally has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

26. (1) The Institute shall constitute, for the benefit of its employees, including the Director, such pension, insurance and provident funds as it may deem fit, in such manner and subject to such conditions as may be laid down in the Statutes.

Pension and
provident
fund.

19 of 1925.

(2) Where any provident fund has been constituted under sub-section (1), the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government provident fund.

27. All appointments of the staff of the Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes by—

Appointment
of staff.

(a) the Governing Council, if the appointment is made on the academic staff in the post of Senior Designer or Professor or above or if the appointment is made on the non-academic staff in any cadre, the maximum of the pay-scale for which is the same or higher than that of Senior Designer or Professor; and

(b) the Director, in any other case.

28. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) conferment of honorary degrees;

(b) formation of departments of teaching, establishment of workshops, laboratories and studios;

(c) fees to be charged for courses of study in the Institute including Institute campus and for admission to the examinations of degrees, diplomas and certificates of the Institute;

(d) institution of fellowships, scholarships, exhibitions, medals and prizes;

(e) qualifications of teachers of the Institute;

(f) classification, method of appointment and the determination of the terms and conditions of service of officers, teachers and other staff of the Institute;

(g) reservation of posts for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes of persons as may be determined by the Central Government;

(h) constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

- (i) constitution, powers and duties of the authorities of the Institute and Institute campuses;
- (j) establishment and maintenance of halls and hostels;
- (k) conditions of residence of students of the Institute and the levying of the fees for residence in the halls and hostels and other charges;
- (l) manner of filling up of vacancies among members of the Governing Council;
- (m) allowances to be paid to the Chairperson and members of the Governing Council;
- (n) authentication of the orders and decisions of the Governing Council;
- (o) meetings of the Governing Council, Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business;
- (p) any other matter which by this Act is to be or may be prescribed by the Statutes.

Statutes how
to be made.

29. (1) The first Statutes of the Institute shall be framed by the Governing Council with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

(2) The Governing Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereinafter in this section provided.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may assent thereto or withhold assent therefrom or remit it to the Governing Council for reconsideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

Ordinances.

30. Subject to the provisions of this Act and the Statutes, the Ordinances of the Institute may provide for all or any of the following matters, namely:—

- (a) admission of the students to the Institute including Institute campus;
- (b) reservation in admission to various courses or programmes of the Institute for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes;
- (c) courses of study to be laid down for all degrees, diplomas and certificates of the Institute;
- (d) conditions under which students shall be admitted to the degree, diploma and certificate courses and to the examinations of the Institute and award of degrees, diplomas and certificates;
- (e) conditions for award of fellowships, scholarships, exhibitions, medals and prizes;
- (f) conditions and mode of appointment and duties of examining body, examiners and moderators;
- (g) conduct of examinations;
- (h) maintenance of discipline among the students of the Institute; and
- (i) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

31. (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

Ordinances
how to be
made.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Governing Council and shall be considered by the Governing Council at its next meeting.

(3) The Governing Council shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

32. (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to an Arbitral Tribunal consisting of one member appointed by the Institute, one member nominated by the employee and an umpire appointed by the Visitor.

Arbitral
Tribunal.

(2) The decision of the Arbitral Tribunal shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to the Arbitral Tribunal.

(4) The Arbitral Tribunal shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitration under this section.

CHAPTER III

MISCELLANEOUS

33. No act of the Institute or Governing Council or Senate or any other authority, set up under this Act or the Statutes, shall be invalid merely by reason of—

Acts and
proceedings
not to be
invalidated by
vacancies,
etc.

(a) any vacancy in, or defect in the constitution thereof; or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

34. Notwithstanding anything contained in this Act, whenever the Institute receives funds from any Government, the University Grants Commission or any other agency including industry sponsoring a research scheme or a consultancy assignment or a teaching programme or a Chaired Professorship or a scholarship, etc., to be executed or endowed at the Institute,—

Sponsored
schemes.

(a) the amount received shall be kept by the Institute separately from the Fund of the Institute and utilised only for that purpose; and

(b) the staff required to execute the same shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organisations:

Provided that any money remaining unutilised shall be transferred to the Endowment Fund set up under section 24 of this Act.

35. The Institute shall have the power to grant degrees, diplomas, certificates and other academic distinctions under this Act, which shall be equivalent to such corresponding degrees, diplomas, certificates and other academic distinctions granted by any University or Institute established or incorporated under any other law for the time being in force.

Power of
Institute to
grant degrees,
etc.

36. The Central Government may give such directions as it may deem necessary to the Institute for effective administration of this Act and the Institute shall comply with such directions.

Powers of
Central
Government
to issue
directions.

Institute to be public authority under Right to Information Act, 2005.

Power of Central Government to make rules.

37. The provisions of the Right to Information Act, 2005 shall apply to the Institute, as if it were a public authority as defined in clause (h) of section 2 of the Right to Information Act, 2005.

22 of 2005.

38. (1) The Central Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of appointment of the Director and terms and conditions of his service under sub-section (1) of section 18;

(b) the form and the manner in which the books of account of the Institute shall be maintained under sub-section (1) of section 25;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Transitional provisions.

39. Notwithstanding anything contained in this Act—

(a) the Governing Council of the Institute functioning as such, immediately before the commencement of this Act, shall continue to so function until a new Governing Council is constituted for the Institute under this Act, but on the constitution of a new Governing Council under this Act, the members of the Governing Council holding office before such constitution shall cease to hold office;

(b) the Policy and Planning Committee of the Society, functioning as such before the commencement of this Act, shall be deemed to be the Senate constituted under this Act and continue to so function until a new Senate is constituted for the Institute under this Act;

(c) until the first Statutes and Ordinances are made under this Act, the rules and regulations, instructions, guidelines and bye-laws of the Society, in force immediately before the commencement of this Act, shall continue to apply to the Institute and Institute campuses located at Bengaluru or Gandhinagar, as the case may be, in so far as they are not inconsistent with the provisions of this Act.

Statutes and Ordinances to be published in the Official Gazette and to be laid before Parliament.

40. (1) Every Statute or Ordinance made under this Act shall be published in the Official Gazette.

(2) Every Statute or Ordinance made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute or Ordinance or both Houses agree that the Statute or Ordinance should not be made, the Statute or Ordinance shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute or Ordinance.

(3) The power to make Statutes or Ordinances shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act to Statutes or Ordinances or any of them but no retrospective effect shall be given to any Statute or Ordinance so as to prejudicially affect the interests of any person to whom such Statutes or Ordinances may be applicable.

41. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the purposes of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Sd/-

P. K. Malhotra,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 9



વાર્ષિક લવાજમનો દર રૂ. ૩૫૦૦/-

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LVI]

FRIDAY, FEBRUARY 6, 2015/MAGHA 17, 1936

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th February, 2015.

No. RPB/219-2015/Act-19-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th July, 2014, Aashadh 27, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 17th July, 2014 is hereby published for general information :-

THE ANDHRA PRADESH REORGANISATION

(AMENDMENT) ACT, 2014

AN

(Act No. 19 of 2014)

ACT

[17th July, 2014.]

to amend the Andhra Pradesh Reorganisation Act, 2014.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Andhra Pradesh Reorganisation (Amendment) Act, 2014.

Short title
and
commencement.

(2) It shall be deemed to have come into force on the 29th day of May, 2014.

6 of 2014.

2. In the Andhra Pradesh Reorganisation Act, 2014, in section 3, for the words, brackets, letters and figures “Khammam [but excluding the revenue villages in the Mandals specified in G.O.Ms.No. 111 Irrigation & CAD (LA IV R&R-I) Department, dated the 27th June, 2005 and the revenue villages of Bhurgumpadu, Seetharamanagaram and Kondreka in Bhurgumpadu Mandal]”, the words and brackets “Khammam (but excluding the Mandals of Kukunoor, Velairpadu and Bhurgumpadu but not including its revenue villages of Pinapaka,

Amendment
of section 3.

VI-Ex-9-1

9-1

Morampalli Bazar, Bhurgampad, Nagineniprolu, Krishnasagar, Tekula, Sarapaka, Iravendi, Mothepattinagar, Uppusaka, Sompalli and Nakripeta under the Palvancha Revenue Division, and the Mandals of Chintoor, Kunavaram, Vararamachandrapuram and Bhadrachalam but not including the revenue village of Bhadrachalam under the Bhadrachalam Revenue Division)" shall be substituted.

Repeal and
saving.

3. (1) The Andhra Pradesh Reorganisation (Amendment) Ordinance, 2014 is hereby repealed.

Ord. 4 of
2014.

(2) Notwithstanding such repeal, anything done or any action taken under the Andhra Pradesh Reorganisation Act, 2014, as amended by the said Ordinance, shall be deemed to have been done or taken under the provisions of that Act, as amended by this Act.

6 of 2014.

Sd/-

P. K. Malhotra,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LVI] SATURDAY, FEBRUARY 7, 2015/MAGHA 18, 1936

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 7th February, 2015.

No. RPB/219-2015/Act-20-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th July, 2014, Aashadh 27, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 17th July, 2014 is hereby published for general information :-

THE TELECOM REGULATORY AUTHORITY OF INDIA

(AMENDMENT) ACT, 2014

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

(Act No. 20 of 2014)

ACT

[17th July, 2014.]

further to amend the Telecom Regulatory Authority of India Act, 1997

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Telecom Regulatory Authority of India (Amendment) Act, 2014.

Short title and commencement.

(2) It shall be deemed to have come into force on the 28th day of May, 2014.

24 of 1997.

2. In the Telecom Regulatory Authority of India Act, 1997 (hereinafter referred to as the principal Act), in section 5,—

Amendment of section 5.

(i) for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) The Chairperson and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—

(a) any employment either under the Central Government or under any State Government; or

(b) any appointment in any company in the business of telecommunication services.”;

(ii) the *Explanation* at the end shall be omitted.

Repeal and saving.

3. (1) The Telecom Regulatory Authority of India (Amendment) Ordinance, 2014, is hereby repealed. Ord. 3 of 2014.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

P. K. Malhotra,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 7th February, 2015.

No. RPB/217-2015/Act-25-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 6th August, 2014, Shraawan 15, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 6th August, 2014 is hereby published for general information :-

THE FINANCE (No. 2) ACT, 2014

AN

(Act No. 25 of 2014)

ACT

[6th August, 2014.]

to give effect to the financial proposals of the Central Government for the financial year 2014-2015.

Be it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance (No. 2) Act, 2014.

Short title and
commence-
ment.

(2) Save as otherwise provided in this Act, sections 2 to 77 shall be deemed to have come into force on the 1st day of April, 2014.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2014, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

Income-tax.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds two lakh rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of two lakh rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income;

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh rupees”, the words “two lakh fifty thousand rupees” had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh rupees”, the words “five lakh rupees” had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be: 43 of 1961.

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act, shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E, 115JB or 115JC of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm or local authority, at the rate of ten per cent. of such income-tax, where the total income exceeds one crore rupees;

(b) in the case of every domestic company,—

(i) at the rate of five per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of ten per cent. of such income-tax, where the total income exceeds ten crore rupees;

(c) in the case of every company, other than a domestic company,—

(i) at the rate of two per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such income-tax, where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a) above, having total income chargeable to tax under section 115JC of the Income-tax Act and such income exceeds one crore rupees, the total amount payable as income-tax on such income and surcharge thereon shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or section 115QA or sub-section (2) of section 115R or section 115TA of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of ten per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194DA, 194E, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194J, 194LA, 194LB, 194LBA, 194LC, 194LD, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm, being a non-resident, calculated at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm, being a non-resident, calculated at the rate of ten per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, calculated—

(i) at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, “advance tax” shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of “advance tax” computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E, 115JB and 115JC of the Income-tax Act, “advance tax” computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm or local authority, calculated at the rate of ten per cent. of such “advance tax”, where the total income exceeds one crore rupees;

(b) in the case of every domestic company, calculated—

(i) at the rate of five per cent. of such “advance tax”, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of ten per cent. of such "advance tax", where the total income exceeds ten crore rupees;

(c) in the case of every company, other than a domestic company, calculated—

(i) at the rate of two per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such "advance tax", where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a) above, having total income chargeable to tax under section 115JC of the Income-tax Act and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds two lakh fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case

may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "three lakh rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "five lakh rupees" had been substituted:

Provided also that the amount of income-tax or "advance tax" so arrived at, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2014, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. In section 2 of the Income-tax Act,—

Amendment of
section 2.

(I) after clause (13), the following clause shall be inserted with effect from the 1st day of October, 2014, namely:—

‘(13A) “business trust” means a trust registered as an Infrastructure Investment Trust or a Real Estate Investment Trust, the units of which are required to be listed on a recognised stock exchange, in accordance with the regulations made under the Securities Exchange Board of India Act, 1992 and notified by the Central Government in this behalf;’;

(II) in clause (14), with effect from the 1st day of April, 2015,—

(A) for the words in the opening portion ‘ “capital asset” means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—

(i) any stock-in-trade’, the following shall be substituted, namely:—

‘ “capital asset” means—

(a) property of any kind held by an assessee, whether or not connected with his business or profession;

(b) any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992,

but does not include—

(i) any stock-in-trade [other than the securities referred to in sub-clause (b)],’;

(B) the *Explanation* occurring at the end shall be numbered as “*Explanation 1*” thereof and after the *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation 2.*—For the purposes of this clause—

(a) the expression “Foreign Institutional Investor” shall have the meaning assigned to it in clause (a) of the *Explanation* to section 115AD;

(b) the expression “securities” shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;’;

(III) for clause (15A), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2013,—

‘(15A) “Chief Commissioner” means a person appointed to be a Chief Commissioner of Income-tax or a Principal Chief Commissioner of Income-tax under sub-section (1) of section 117;’;

(IV) for clause (16), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2013,—

‘(16) “Commissioner” means a person appointed to be a Commissioner of Income-tax or a Director of Income-tax or a Principal Commissioner of Income-tax or a Principal Director of Income-tax under sub-section (1) of section 117;’;

(V) for clause (21), the following clause shall be substituted and shall be deemed

15 of 1992.

15 of 1992.

42 of 1956.

to have been substituted with effect from the 1st day of June, 2013,—

“(21) “Director General or Director” means a person appointed to be a Director General of Income-tax or a Principal Director General of Income-tax or, as the case may be, a Director of Income-tax or a Principal Director of Income-tax, under sub-section (1) of section 117, and includes a person appointed under that sub-section to be an Additional Director of Income-tax or a Joint Director of Income-tax or an Assistant Director or Deputy Director of Income-tax;”;

(VI) in clause (24), after sub-clause (xvi), the following sub-clause shall be inserted with effect from the 1st day of April, 2015, namely:—

“(xvii) any sum of money referred to in clause (ix) of sub-section (2) of section 56;”;

(VII) after clause (34), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2013,—

“(34A) “Principal Chief Commissioner of Income-tax” means a person appointed to be a Principal Chief Commissioner of Income-tax under sub-section (1) of section 117;

(34B) “Principal Commissioner of Income-tax” means a person appointed to be a Principal Commissioner of Income-tax under sub-section (1) of section 117;

(34C) “Principal Director of Income-tax” means a person appointed to be a Principal Director of Income-tax under sub-section (1) of section 117;

(34D) “Principal Director General of Income-tax” means a person appointed to be a Principal Director General of Income-tax under sub-section (1) of section 117;”;

(VIII) in clause (42A),—

(A) in the proviso, with effect from the 1st day of April, 2015,—

(i) for the words “a share held in a company or any other security listed in a recognised stock exchange in India”, the words and brackets “a security (other than a unit) listed in a recognised stock exchange in India” shall be substituted;

(ii) for the words, brackets, figures and letter “a unit of a Mutual Fund specified under clause (23D) of section 10”, the words “a unit of an equity oriented fund” shall be substituted;

(B) after the proviso, but before *Explanation 1*, the following proviso shall be inserted with effect from the 1st day of April, 2015, namely:—

“Provided further that in case of a share of a company (not being a share listed in a recognised stock exchange) or a unit of a Mutual Fund specified under clause (23D) of section 10, which is transferred during the period beginning on the 1st day of April, 2014 and ending on the 10th day of July, 2014, the provisions of this clause shall have effect as if for the words “thirty-six months”, the words “twelve months” had been substituted.”;

(C) in the *Explanation 1*, in clause (i), after sub-clause (hb), the following sub-clause shall be inserted with effect from the 1st day of October, 2014, namely:—

“(hc) in the case of a capital asset, being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in clause (xvii) of section 47, there shall be included the period for which the share or shares were held by the assessee;”;

(D) after *Explanation 3*, the following *Explanation* shall be inserted with effect from the 1st day of April, 2015, namely:—

“*Explanation 4.*—For the purposes of this clause, the expression “equity oriented fund” shall have the meaning assigned to it in the *Explanation* to clause (38) of section 10;”.

Substitution of
new authorities.

4. In the Income-tax Act, save as otherwise expressly provided, and unless the context otherwise requires, the reference to any income-tax authority specified in column (1) of the Table below shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2013 by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall be made:

TABLE

| Sl. No. | (1) | (2) |
|---------|--------------------|--|
| 1. | Commissioner | Principal Commissioner or Commissioner |
| 2. | Director | Principal Director or Director |
| 3. | Chief Commissioner | Principal Chief Commissioner or Chief Commissioner |
| 4. | Director General | Principal Director General or Director General. |

5. In section 10 of the Income-tax Act, with effect from the 1st day of April, 2015,—

Amendment of
section 10.

(a) in clause (23C),—

(i) after sub-clause (iiic), the following *Explanation* shall be inserted, namely:—

“Explanation.—For the purposes of sub-clauses (iiib) and (iiic), any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds such percentage of the total receipts including any voluntary contributions, as may be prescribed, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year;”

(ii) after the seventeenth proviso, the following proviso and the *Explanation* shall be inserted, namely:—

“Provided also that where the fund or institution referred to in sub-clause (iv) or the trust or institution referred to in sub-clause (v) has been notified by the Central Government or approved by the prescribed authority, as the case may be, or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), has been approved by the prescribed authority, and the notification or the approval is in force for any previous year, then, nothing contained in any other provision of this section [other than clause (1) thereof] shall operate to exclude any income received on behalf of such fund or trust or institution or university or other educational institution or hospital or other medical institution, as the case may be, from the total income of the person in receipt thereof for that previous year.

Explanation.—In this clause, where any income is required to be applied or accumulated, then, for such purpose the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this clause in the same or any other previous year;”

(b) after clause (23FB), the following clauses shall be inserted, namely:—

“(23FC) any income of a business trust by way of interest received or receivable from a special purpose vehicle.

Explanation.—For the purposes of this clause, the expression “special purpose vehicle” means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration;

(23FD) any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in clause (23FC);

(c) in clause (38),—

(i) after the words “unit of an equity oriented fund”, the words “or a unit of a business trust” shall be inserted;

(ii) after the proviso but before the *Explanation*, the following proviso shall be inserted, namely:—

“Provided further that the provisions of this clause shall not apply in respect of any income arising from transfer of units of a business trust which were acquired in consideration of a transfer referred to in clause (xvii) of section 47.”.

Amendment
of section
10AA.

6. In section 10AA of the Income-tax Act, after sub-section (9) but before the *Explanation 1*, the following sub-section shall be inserted with effect from the 1st day of April, 2015, namely:—

“(10) Where a deduction under this section is claimed and allowed in respect of profits of any of the specified business, referred to in clause (c) of sub-section (8) of section 35AD, for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.”.

Amendment
of section 11.

7. In section 11 of the Income-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of April, 2015, namely:—

“(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) of section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996] and the said registration is in force for any previous year, then, nothing contained in section 10 [other than clause (1) and clause (23C) thereof] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year.”.

33 of 1996.

Amendment
of section
12A.

8. In section 12A of the Income-tax Act, in sub-section (2), the following provisos shall be inserted with effect from the 1st day of October, 2014, namely:—

“Provided that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA.”.

9. In section 12AA of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of October, 2014, namely:—

Amendment
of section
12AA.

33 of 1996.

“(4) Without prejudice to the provisions of sub-section (3), where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996] and subsequently it is noticed that the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13, then, the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution:

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner.”.

10. In section 24 of the Income-tax Act, in clause (b), in the second proviso, for the words “one lakh fifty thousand rupees”, the words “two lakh rupees” shall be substituted with effect from the 1st day of April, 2015.

Amendment
of section 24.

11. In section 32AC of the Income-tax Act, with effect from the 1st day of April, 2015,—

Amendment of
section 32AC.

(i) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new assets and the amount of actual cost of such new assets acquired and installed during any previous year exceeds twenty-five crore rupees, then, there shall be allowed a deduction of a sum equal to fifteen per cent. of the actual cost of such new assets for the assessment year relevant to that previous year:

Provided that no deduction under this sub-section shall be allowed for the assessment year commencing on the 1st day of April, 2015 to the assessee, which is eligible to claim deduction under sub-section (1) for the said assessment year.

(1B) No deduction under sub-section (1A) shall be allowed for any assessment year commencing on or after the 1st day of April, 2018.”;

(ii) in sub-section (2), after the words, brackets and figure “allowed under sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted.

12. In section 35AD of the Income-tax Act, with effect from the 1st day of April, 2015,—

Amendment of
section 35AD.

(a) in sub-section (3), after the words “no deduction shall be allowed under the provisions of”, the words, figures and letters “section 10 A and” shall be inserted;

(b) in sub-section (5),—

(i) in clause (ah), the word “and” occurring at the end, shall be omitted;

(ii) after clause (ah), the following clauses shall be inserted, namely:—

“(ai) on or after the 1st day of April, 2014, where the specified business is in the nature of laying and operating a slurry pipeline for the transportation of iron ore;

(aj) on or after the 1st day of April, 2014, where the specified business is in the nature of setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed; and”;

(c) after sub-section (7), the following sub-sections shall be inserted, namely:—

“(7A) Any asset in respect of which a deduction is claimed and allowed under this section shall be used only for the specified business, for a period of eight years beginning with the previous year in which such asset is acquired or constructed.

(7B) Where any asset, in respect of which a deduction is claimed and allowed under this section, is used for a purpose other than the specified business during the period specified in sub-section (7A), otherwise than by way of a mode referred to in clause (vii) of section 28, the total amount of deduction so claimed and allowed in one or more previous years, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32, as if no deduction under this section was allowed, shall be deemed to be the income of the assessee chargeable under the head “Profits and gains of business or profession” of the previous year in which the asset is so used.

(7C) Nothing contained in sub-section (7B) shall apply to a company which has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985, during the period specified in sub-section (7A).”; 1 of 1986.

(d) in sub-section (8), in clause (c), after sub-clause (xi), the following sub-clauses shall be inserted, namely:—

“(xi) laying and operating a slurry pipeline for the transportation of iron ore;

(xiii) setting up and operating a semi-conductor wafer fabrication manufacturing unit notified by the Board in accordance with such guidelines as may be prescribed;”.

Amendment of
section 37.

13. In section 37 of the Income-tax Act, in sub-section (1), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted with effect from the 1st day of April, 2015, namely:—

“*Explanation 2.*—For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.”. 18 of 2013.

Amendment
of section 40.

14. In section 40 of the Income-tax Act, in clause (a), with effect from the 1st day of April, 2015,—

(a) in sub-clause (i),—

(I) for the portion beginning with the words “during the previous year” and ending with the words, brackets and figures “sub-section (1) of section 200”, the words, brackets and figures “on or before the due date specified in sub-section (1) of section 139” shall be substituted;

(II) for the proviso, the following proviso shall be substituted, namely:—

“Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.”;

(b) in sub-clause (ia),—

(I) for the portion beginning with the words “any interest, commission or brokerage” and ending with the words and brackets “for carrying out any work

(including supply of labour for carrying out any work)", the words "thirty per cent. of any sum payable to a resident" shall be substituted;

(II) in the first proviso, after the words, brackets and figures "sub-section (I) of section 139," the words "thirty per cent. of" shall be inserted.

17 of 2013. 15. In section 43 of the Income-tax Act, in clause (5), in the proviso, in clause (e), for the words "recognised association", the words and figures "recognised association, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013" shall be substituted. Amendment of section 43.

16. In section 44AE of the Income-tax Act, with effect from the 1st day of April, 2015,— Amendment of section 44AE.

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) For the purpose of sub-section (1), the profits and gains from each goods carriage shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from the vehicle, whichever is higher.”;

(ii) in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

59 of 1988. “(a) the expression “goods carriage” shall have the meaning assigned to it in section 2 of the Motor Vehicles Act, 1988;”.

17. In section 45 of the Income-tax Act, in sub-section (5), after clause (b), the following proviso shall be inserted with effect from the 1st day of April, 2015, namely:— Amendment of section 45.

‘Provided that any amount of compensation received in pursuance of an interim order of a court, Tribunal or other authority shall be deemed to be income chargeable under the head “Capital gains” of the previous year in which the final order of such court, Tribunal or other authority is made;’.

18. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2015,— Amendment of section 47.

(a) after clause (viiia), the following shall be inserted, namely:—

“(viiib) any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident.

42 of 1956. *Explanation.*—For the purposes of this clause, “Government Security” shall have the meaning assigned to it in clause (b) of section 2 of the Securities Contracts (Regulation) Act, 1956;”.

(b) after clause (xvi), the following shall be inserted, namely:—

“(xvii) any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor.

Explanation.—For the purposes of this clause, the expression “special purpose vehicle” shall have the meaning assigned to it in the *Explanation* to clause (23FC) of section 10.’.

19. In section 48 of the Income-tax Act, in the *Explanation*, in clause (v), for the words “Consumer Price Index for urban non-manual employees”, the words and brackets “Consumer Price Index (Urban)” shall be substituted with effect from the 1st day of April, 2016. Amendment of section 48.

20. In section 49 of the Income-tax Act, after sub-section (2AB), the following sub-section shall be inserted with effect from the 1st day of April, 2015,— Amendment of section 49.

“(2AC) Where the capital asset, being a unit of a business trust, became the property of the assessee in consideration of a transfer as referred to in clause (xvii) of

section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share referred to in the said clause.”.

Amendment of
section 51.

21. In section 51 of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2015, namely:—

“Provided that where any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year in accordance with the provisions of clause (ix) of sub-section (2) of section 56, then, such sum shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.”.

Amendment of
section 54.

22. In section 54 of the Income-tax Act, in sub-section (1), for the words “constructed, a residential house”, the words “constructed, one residential house in India” shall be substituted with effect from the 1st day of April, 2015.

Amendment of
section 54EC.

23. In section 54EC, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2015, namely:—

“Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.”.

Amendment of
section 54F.

24. In section 54F of the Income-tax Act, in sub-section (1), for the words “constructed, a residential house”, the words “constructed, one residential house in India” shall be substituted with effect from the 1st day of April, 2015.

Amendment of
section 56.

25. In section 56 of the Income-tax Act, in sub-section (2), after clause (viii), the following clause shall be inserted with effect from the 1st day of April, 2015, namely:—

“(ix) any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if,—

(a) such sum is forfeited; and

(b) the negotiations do not result in transfer of such capital asset.”.

Amendment of
section 73.

26. In section 73 of the Income-tax Act, in the *Explanation*, for the words “the principal business of which is the business of banking”, the words “the principal business of which is the business of trading in shares or banking” shall be substituted with effect from the 1st day of April, 2015.

Amendment of
section 80C.

27. In section 80C of the Income-tax Act, in sub-section (1), for the words “one lakh rupees”, the words “one hundred and fifty thousand rupees” shall be substituted with effect from the 1st day of April, 2015.

Amendment of
section
80CCD.

28. In section 80CCD of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2015,—

(i) for the words, figures and letters “Where an assessee, being an individual employed by the Central Government or any other employer on or after the 1st day of January, 2004”, the words, figures and letters “Where an assessee, being an individual employed by the Central Government on or after the 1st day of January, 2004 or, being an individual employed by any other employer” shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The amount of deduction under sub-section (1) shall not exceed one hundred thousand rupees.”.

Amendment of
section
80CCE.

29. In section 80CCE of the Income-tax Act, for the words “one lakh rupees”, the words “one hundred and fifty thousand rupees” shall be substituted with effect from the 1st day of April, 2015.

Amendment of
section
80-IA.

30. In section 80-IA of the Income-tax Act, in sub-section (4), in clause (iv), in sub-clauses (a), (b) and (c), for the words, figures and letters “the 31st day of March, 2014”, the words, figures and letters “the 31st day of March, 2017” shall respectively be substituted with effect from the 1st day of April, 2015.

31. In section 92B of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2015,—

Amendment of section 92B.

(i) for the words “deemed to be a transaction”, the words “deemed to be an international transaction” shall be substituted;

(ii) after the words “determined in substance between such other person and the associated enterprise”, the words “where the enterprise or the associated enterprise or both of them are non-residents irrespective of whether such other person is a non-resident or not” shall be inserted.

32. In section 92C of the Income-tax Act, in sub-section (2), after the second proviso, but before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2015, namely:—

Amendment of section 92C.

“Provided also that where more than one price is determined by the most appropriate method, the arm's length price in relation to an international transaction or specified domestic transaction undertaken on or after the 1st day of April, 2014, shall be computed in such manner as may be prescribed and accordingly the first and second proviso shall not apply.”.

33. In section 92CC of the Income-tax Act, after sub-section (9), the following sub-section shall be inserted with effect from the 1st day of October, 2014, namely:—

Amendment of section 92CC.

“(9A) The agreement referred to in sub-section (1), may, subject to such conditions, procedure and manner as may be prescribed, provide for determining the arm's length price or specify the manner in which arm's length price shall be determined in relation to the international transaction entered into by the person during any period not exceeding four previous years preceding the first of the previous years referred to in sub-section (4), and the arm's length price of such international transaction shall be determined in accordance with the said agreement.”.

34. In section 111A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2015,—

Amendment of section 111A.

(A) after the words “unit of an equity oriented fund”, the words “or a unit of a business trust” shall be inserted;

(B) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the provisions of this sub-section shall not apply in respect of any income arising from transfer of units of a business trust which were acquired by the assessee in consideration of a transfer as referred to in clause (xvii) of section 47.”.

35. In section 112 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2015,—

Amendment of section 112.

(a) in the proviso, occurring after clause (d), for the words “being listed securities or unit”, the words and brackets “being listed securities (other than a unit)” shall be substituted;

(b) after the proviso, occurring after clause (d), the following proviso shall be inserted, namely:—

“Provided further that where the tax payable in respect of any income arising from the transfer of a long-term capital asset, being a unit of a Mutual Fund specified under clause (23D) of section 10, during the period beginning on the 1st day of April, 2014 and ending on the 10th day of July, 2014, exceeds ten per cent. of the amount of capital gains, before giving effect to the provisions of the second proviso to section 48, then, such excess shall be ignored for the purpose of computing the tax payable by the assessee.”;

(c) in the *Explanation*, clause (b) shall be omitted.

36. In section 115A of the Income-tax Act, in sub-section (1), in clause (a), with effect from the 1st day of April, 2015,—

Amendment of section 115A.

(I) after sub-clause (iiab), the following sub-clause shall be inserted, namely:—

“(iiac) distributed income being interest referred to in sub-section (2) of section 194LBA;”;

(II) in item (BA), after the word, brackets, figures and letters “sub-clause (iiab)”, the words, brackets, figures and letters “or sub-clause (iiac)” shall be inserted;

(III) in item (D), after the word, brackets, figures and letters “sub-clause (iiab)”, the word, brackets, figures and letters “, sub-clause (iiac)” shall be inserted.

Amendment
of section
115BBC.

37. In section 115BBC of the Income-tax Act, in sub-section (1), for clause (ii), the following clause shall be substituted with effect from the 1st day of April, 2015, namely:—

“(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received in excess of the amount referred to in sub-clause (A) or sub-clause (B) of clause (i), as the case may be.”.

Amendment
of section
115BBD.

38. In section 115BBD of the Income-tax Act, in sub-section (1), the words, figures and letters “for the previous year relevant to the assessment year beginning on the 1st day of April, 2012 or beginning on the 1st day of April, 2013 or beginning on the 1st day of April, 2014” shall be omitted with effect from the 1st day of April, 2015.

Amendment
of section
115JC.

39. In section 115JC of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2015,—

(a) in clause (i), the word “and” occurring at the end, shall be omitted;

(b) in clause (ii), for the words, figures and letters “under section 10AA”, the words, figures and letters “under section 10AA; and” shall be substituted;

(c) after clause (ii), the following clause shall be inserted, namely:—

“(iii) deduction claimed, if any, under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.”.

Amendment of
section
115JEE.

40. In section 115JEE of the Income-tax Act, with effect from the 1st day of April, 2015,—

(A) in sub-section (1), for clause (b), the following clauses shall be substituted, namely:—

“(b) section 10AA; or

(c) section 35AD.”;

(B) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the credit for tax paid under section 115JC shall be allowed in accordance with the provisions of section 115JD.”.

Amendment of
section 115-O.

41. In section 115-O of the Income-tax Act, after the *Explanation* to sub-section (1A), the following sub-section shall be inserted with effect from the 1st day of October, 2014, namely:—

“(1B) For the purposes of determining the tax on distributed profits payable in accordance with this section, any amount by way of dividends referred to in sub-section (1) as reduced by the amount referred to in sub-section (1A) [hereafter referred to as net distributed profits], shall be increased to such amount as would, after reduction of the tax on such increased amount at the rate specified in sub-section (1), be equal to the net distributed profits.”.

Amendment of
section 115R.

42. In section 115R of the Income-tax Act,—

(a) after the *Explanation* to sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 2014, namely:—

“(2A) For the purposes of determining the additional income-tax payable in accordance with sub-section (2), the amount of distributed income referred therein shall be increased to such amount as would, after reduction of the additional income-tax on such increased amount at the rate specified in sub-section (2), be equal to the amount of income distributed by the Mutual Fund.”;

(b) sub-section (3A) shall be omitted with effect from the 1st day of April, 2015.

Amendment of
section 115TA.

43. In section 115TA of the Income-tax Act, sub-section (3) shall be omitted with effect from the 1st day of April, 2015.

44. After Chapter XII-F of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2015, namely:—

Insertion of new Chapter XII-FA.

“CHAPTER XII-FA

SPECIAL PROVISIONS RELATING TO BUSINESS TRUSTS

115UA. (1) Notwithstanding anything contained in any other provisions of this Act, any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

Tax on income of unit holder and business trust.

(2) Subject to the provisions of section 111A and section 112, the total income of a business trust shall be charged to tax at the maximum marginal rate.

(3) If in any previous year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in clause (23FC) of section 10, then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the previous year.

(4) Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner as may be prescribed, giving the details of the nature of the income paid during the previous year and such other details as may be prescribed.”

45. In section 116 of the Income-tax Act,—

Amendment of section 116.

(i) after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2013,—

“(aa) Principal Directors General of Income-tax or Principal Chief Commissioners of Income-tax,”;

(ii) after clause (b), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2013,—

“(ba) Principal Directors of Income-tax or Principal Commissioners of Income-tax,”.

46. In section 119 of the Income-tax Act, in sub-section (2), in clause (a), after the figures and letter “234C”, the figures and letter “234E” shall be inserted with effect from the 1st day of October, 2014.

Amendment of section 119.

47. In section 133A of the Income-tax Act, with effect from the 1st day of October, 2014,—

Amendment of section 133A.

(1) after sub-section (2), the following sub-section shall be inserted, namely:—

“(24) Without prejudice to the provisions of sub-section (1), an income-tax authority acting under this sub-section may for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions under sub-heading B of Chapter XVII or under sub-heading BB of Chapter XVII, as the case may be, enter, after sunrise and before sunset, any office, or any other place where business or profession is carried on, within the limits of the area assigned to him, or any place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept and require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work,—

(i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and

(ii) to furnish such information as he may require in relation to such matter.”;

(II) in sub-section (3), in clause (ia), in the proviso, for clause (b), the following clause shall be substituted, namely:—

“(b) retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General or the Principal Commissioner or the Commissioner or the Principal Director or the Director therefor, as the case may be,”;

(III) in sub-section (3), the following proviso shall be inserted, namely:—

“Provided that no action under clause (ia) or clause (ii) shall be taken by an income-tax authority acting under sub-section (2A).”.

Insertion of
new section
133C.

Power to call
for
information
by prescribed
income-tax
authority.

48. After section 133B of the Income-tax Act, the following shall be inserted with effect from the 1st day of October, 2014, namely:—

‘133C. The prescribed income-tax authority may, for the purposes of verification of information in its possession relating to any person, issue a notice to such person requiring him, on or before a date to be specified therein, to furnish information or documents verified in the manner specified therein, which may be useful for, or relevant to, any inquiry or proceeding under this Act.

Explanation.—In this section, the term “proceeding” shall have the meaning assigned to it in clause (b) of the *Explanation* to section 133A.’.

Amendment
of section
139.

49. In section 139 of the Income-tax Act, with effect from the 1st day of April, 2015,—

(a) in sub-section (4C),—

(i) after clause (e), the following clauses shall be inserted, namely:—

“(ea) Mutual Fund referred to in clause (23D) of section 10;

(eb) securitisation trust referred to in clause (23DA) of section 10;

(ec) venture capital company or venture capital fund referred to in clause (23FB) of section 10;”;

(ii) after the words “or infrastructure debt fund”, the words “or Mutual Fund or securitisation trust or venture capital company or venture capital fund” shall be inserted;

(b) after sub-section (4D), the following sub-section shall be inserted, namely:—

“(4E) Every business trust, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of its income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply if it were a return required to be furnished under sub-section (1).”.

Amendment of
section 140.

50. In section 140 of the Income-tax Act, with effect from the 1st day of October, 2014,—

(i) in the marginal heading, for the word “signed”, the word “verified” shall be substituted;

(ii) for the words “signed and verified”; wherever they occur, the word “verified” shall be substituted;

(iii) for the words “sign and verify”, wherever they occur, the word “verify” shall be substituted;

(iv) in clause (a),—

(a) in sub-clause (iv), for the word “sign”, the word “verify” shall be substituted;

(b) in the proviso, for the word “signing”, the word “verifying” shall be substituted.

51. For section 142A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2014, namely:—

Substitution of new section for section 142A.

‘142A. (1) The Assessing Officer may, for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit a copy of report to him.

Estimation of value of assets by Valuation Officer.

(2) The Assessing Officer may make a reference to the Valuation Officer under sub-section (1) whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.

(3) The Valuation Officer, on a reference made under sub-section (1), shall, for the purpose of estimating the value of the asset, property or investment, have all the powers that he has under section 38A of the Wealth-tax Act, 1957.

27 of 1957.

(4) The Valuation Officer shall, estimate the value of the asset, property or investment after taking into account such evidence as the assessee may produce and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

(5) The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.

(6) The Valuation Officer shall send a copy of the report of the estimate made under sub-section (4) or sub-section (5), as the case may be, to the Assessing Officer and the assessee, within a period of six months from the end of the month in which a reference is made under sub-section (1).

(7) The Assessing Officer may, on receipt of the report from the Valuation Officer, and after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

Explanation.—In this section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.’.

27 of 1957.

52. In section 145 of the Income-tax Act, with effect from the 1st day of April, 2015,—

Amendment of section 145.

(i) in sub-section (2), for the words “accounting standards”, the words “income computation and disclosure standards” shall be substituted;

(ii) in sub-section (3), for the words, brackets and figure “or accounting standards as notified under sub-section (2), have not been regularly followed by the assessee”, the words, brackets and figure “has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2)” shall be substituted.

53. In section 153 of the Income-tax Act, in *Explanation 1*, after clause (iii), the following clause shall be inserted with effect from the 1st day of October, 2014, namely:—

Amendment of section 153.

“(iv) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and

ending with the date on which the report of the Valuation Officer is received by the Assessing Officer, or”.

Amendment of section 153B.

54. In section 153B of the Income-tax Act, in the *Explanation*, after clause (ii), the following clause shall be inserted with effect from the 1st day of October, 2014, namely:—

“(iia) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer, or”.

Amendment of section 153C.

55. In section 153C of the Income-tax Act, in sub-section (1), for the words, figures and letter “and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A”, occurring at the end but before the first proviso, the words, figures, letters and brackets “and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A” shall be substituted with effect from the 1st day of October, 2014.

Amendment of section 194A.

56. In section 194A of the income-tax Act, in sub-section (3), after clause (x), the following clause shall be inserted with effect from the 1st day of October, 2014, namely:—

“(xi) to any income by way of interest referred to in clause (23FC) of section 10.”.

Insertion of new section 194DA.

57. After section 194D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2014, namely:—

Payment in respect of life insurance policy.

“194DA. Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under clause (10D) of section 10, shall, at the time of payment thereof, deduct income-tax thereon at the rate of two per cent.:

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than one hundred thousand rupees.”.

Insertion of new section 194LBA.

58. After section 194LB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2014, namely:—

Certain income from units of a business trust.

“194LBA. (1) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FC) of section 10, is payable by a business trust to its unit holder being a resident, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

(2) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FC) of section 10, is payable by a business trust to its unit holder, being a non-resident, not being a company or a foreign company, the person responsible for making the payment shall at the

time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent.”.

59. In section 194LC of the Income-tax Act, with effect from the 1st day of October, 2014,— Amendment of section 194LC.

(A) in sub-section (1), after the words “by a specified company”, the words “or a business trust” shall be inserted;

(B) in sub-section (2),—

(a) in the opening portion, after the words “by the specified company”, the words “or the business trust” shall be inserted;

(b) for clause (i), the following clause shall be substituted, namely:—

“(i) in respect of monies borrowed by it in foreign currency from a source outside India,—

(a) under a loan agreement at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2017; or

(b) by way of issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of October, 2014; or

(c) by way of issue of any long-term bond including long-term infrastructure bond at any time on or after the 1st day of October, 2014 but before the 1st day of July, 2017,

as approved by the Central Government in this behalf; and”.

60. In section 200 of the Income-tax Act, in sub-section (3), the following proviso shall be inserted with effect from the 1st day of October, 2014, namely:— Amendment of section 200.

“Provided that the person may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be specified by the authority.”.

61. In section 200A of the Income-tax Act, in sub-section (1), after the words “where a statement of tax deduction at source”, the words “or a correction statement” shall be inserted with effect from the 1st day of October, 2014. Amendment of section 200A.

62. In section 201 of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of October, 2014, namely:— Amendment of section 201.

“(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of seven years from the end of the financial year in which payment is made or credit is given.”.

63. In section 206AA of the Income-tax Act, in sub-section (7), the word “infrastructure” shall be omitted with effect from the 1st day of October, 2014. Amendment of section 206AA.

64. In section 220 of the Income-tax Act, with effect from the 1st day of October, 2014,— Amendment of section 220.

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then, such demand shall be deemed to be valid till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964.”;

11 of 1964.

(ii) in sub-section (2),—

(a) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under this section is increased, the assessee shall be liable to pay interest under sub-section (2) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1) and ending with the day on which the amount is paid.”;

(b) in the second proviso, for the words “Provided further”, the words “Provided also” shall be substituted.

Amendment
of section
245A.

65. In section 245A of the Income-tax Act, in clause (b), with effect from the 1st day of October, 2014,—

(A) the proviso shall be omitted;

(B) in the *Explanation*,—

(a) in clause (i), for the words, brackets and figure “referred to in clause (i) of the proviso”, the words and figures “under section 147” shall be substituted;

(b) for clause (iii), the following clause shall be substituted, namely:—

“(iii) a proceeding for making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment shall be deemed to have commenced from the date on which such order, setting aside or cancelling an assessment was passed.”;

(c) in clause (iv), for the words, brackets, figures and letter “clause (i) or clause (iv) of the proviso or clause (iiia) of the *Explanation*”, the words, brackets, figures and letter “clause (i) or clause (iii) or clause (iiia)” shall be substituted.

Amendment
of section
245N.

66. In section 245N of the Income-tax Act, with effect from the 1st day of October, 2014,—

(A) in clause (a),—

(I) in sub-clause (ii), at the end, the word “or” shall be inserted;

(II) after sub-clause (ii) and before the long line, the following sub-clause shall be inserted, namely:—

“(iia) a determination by the Authority in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant,”;

(B) in clause (b), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iia) is a resident referred to in sub-clause (iia) of clause (a) falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify; or”;

(C) for clause (f), the following clauses shall be substituted, namely:—

“(f) “Member” means a Member of the Authority and includes the Chairman and Vice-chairman;

(g) “Vice-chairman” means the Vice-chairman of the Authority.”

67. In section 245-O of the Income-tax Act, for sub-sections (2), (3), (4) and (5), the following sub-sections shall be substituted with effect from the 1st day of October, 2014, namely:—

Amendment
of section
245-O.

“(2) The Authority shall consist of a Chairman and such number of Vice-chairmen, revenue Members and law Members as the Central Government may, by notification, appoint.

(3) A person shall be qualified for appointment as—

(a) Chairman, who has been a Judge of the Supreme Court;

(b) Vice-chairman, who has been Judge of a High Court;

(c) a revenue Member from the Indian Revenue Service, who is a Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General;

(d) a law Member from the Indian Legal Service, who is an Additional Secretary to the Government of India.

(4) The terms and conditions of service and the salaries and allowances payable to the Members shall be such as may be prescribed.

(5) The Central Government shall provide to the Authority with such officers and employees, as may be necessary, for the efficient discharge of the functions of the Authority under this Act.

(6) The powers and functions of the Authority may be discharged by its Benches as may be constituted by the Chairman from amongst the Members thereof.

(7) A Bench shall consist of the Chairman or the Vice-chairman and one revenue Member and one law Member.

(8) The Authority shall be located in the National Capital Territory of Delhi and its Benches shall be located at such places as the Central Government may, by notification specify.”

68. In section 269SS of the Income-tax Act, in the opening portion, after the words “cheque or account payee bank draft”, the words “or use of electronic clearing system through a bank account” shall be inserted with effect from the 1st day of April, 2015.

Amendment
of section
269SS.

Amendment of
section 269T.

69. In section 269T of the Income-tax Act, in the opening portion, after the words "cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit", the words "or by use of electronic clearing system through a bank account" shall be inserted with effect from the 1st day of April, 2015.

Amendment of
section 271FA.

70. In section 271FA of the Income-tax Act, with effect from the 1st day of April, 2015,—

(i) in the marginal heading, for the words "annual information return", the words "statement of financial transaction or reportable account" shall be substituted;

(ii) for the words "an annual information return", the words "a statement of financial transaction or reportable account" shall be substituted;

(iii) for the word "return", wherever it occurs, the word "statement" shall be substituted.

Insertion of
new section
271FAA.

71. After section 271FA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2015, namely:—

Penalty for
furnishing
inaccurate
statement of
financial
transaction or
reportable
account.

"271FAA. If a person referred to in clause (k) of sub-section (1) of section 285BA, who is required to furnish a statement under that section, provides inaccurate information in the statement, and where—

(a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed under sub-section (7) of section 285BA or is deliberate on the part of that person; or

(b) the person knows of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or

(c) the person discovers the inaccuracy after the statement of financial transaction or reportable account is furnished and fails to inform and furnish correct information within the time specified under sub-section (6) of section 285BA,

then, the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees."

Amendment
of section
271G.

72. In section 271G of the Income-tax Act, after the words "the Assessing Officer", the words, figures and letters "or the Transfer Pricing Officer as referred to in section 92CA" shall be inserted with effect from the 1st day of October, 2014.

Amendment
of section
271H.

73. In section 271H of the Income-tax Act, in sub-section (1), in the opening portion, for the words "a person shall be liable to pay", the words "the Assessing Officer may direct that a person shall pay by way of" shall be substituted with effect from the 1st day of October, 2014.

Amendment
of section
276D.

74. In section 276D of the Income-tax Act, for the words "or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both", the words "and with fine" shall be substituted with effect from the 1st day of October, 2014.

Amendment
of section
281B.

75. In section 281B of the Income-tax Act, in sub-section (2), with effect from the 1st day of October, 2014,—

(i) in the first proviso, for the words "two years", the words "two years or sixty days after the date of order of assessment or reassessment, whichever is later" shall be substituted;

(ii) the second and third proviso shall be omitted.

76. For section 285BA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2015, namely:—

Substitution of new section for section 285BA.

Obligation to furnish statement of financial transaction or reportable account.

‘285BA. (1) Any person, being—

- (a) an assessee; or
- (b) the prescribed person in the case of an office of Government; or
- (c) a local authority or other public body or association; or
- (d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or
- (e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or
- (f) the Post Master General as referred to in clause (f) of section 2 of the Indian Post Office Act, 1898; or
- (g) the Collector referred to in clause (g) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
- (h) the recognised stock exchange referred to in clause (j) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
- (i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934; or
- (j) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or
- (k) a prescribed reporting financial institution,

who is responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed, under any law for the time being in force, shall furnish a statement in respect of such specified financial transaction or such reportable account which is registered or recorded or maintained by him and information relating to which is relevant and required for the purposes of this Act, to the income-tax authority or such other authority or agency as may be prescribed.

(2) The statement referred to in sub-section (1) shall be furnished for such period, within such time and in the form and manner, as may be prescribed.

(3) For the purposes of sub-section (1), “specified financial transaction” means any—

- (a) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or
- (b) transaction for rendering any service; or
- (c) transaction under a works contract; or
- (d) transaction by way of an investment made or an expenditure incurred; or
- (e) transaction for taking or accepting any loan or deposit,

which may be prescribed:

Provided that the Board may prescribe different values for different transactions in respect of different persons having regard to the nature of such transaction:

Provided further that the value or, as the case may be, the aggregate value of such transactions during a financial year so prescribed shall not be less than fifty thousand rupees.

(4) Where the prescribed income-tax authority considers that the statement furnished under sub-section (1) is defective, he may intimate the defect to the person who has furnished such statement and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said income-tax authority may, in his discretion,

allow; and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such statement shall be treated as an invalid statement and the provisions of this Act shall apply as if such person had failed to furnish the statement.

(5) Where a person who is required to furnish a statement under sub-section (1) has not furnished the same within the specified time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such statement within a period not exceeding thirty days from the date of service of such notice and he shall furnish the statement within the time specified in the notice.

(6) If any person, having furnished a statement under sub-section (1), or in pursuance of a notice issued under sub-section (5), comes to know or discovers any inaccuracy in the information provided in the statement, he shall within a period of ten days inform the income-tax authority or other authority or agency referred to in sub-section (1), the inaccuracy in such statement and furnish the correct information in such manner as may be prescribed.

(7) The Central Government may, by rules made under this section, specify—

(a) the persons referred to in sub-section (1) to be registered with the prescribed income-tax authority;

(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause (a); and

(c) the due diligence to be carried out by the persons for the purpose of identification of any reportable account referred to in sub-section (1).'

Wealth-tax

Amendment of
Act 27 of
1957.

77. In section 22A of the Wealth-tax Act, in clause (b), with effect from the 1st day of October, 2014,—

(A) the proviso shall be omitted;

(B) in the *Explanation*,—

(a) in clause (i), for the words, brackets and figures "clause (i) of the proviso shall, in case where a notice under section 17", the words and figures "section 17 shall, in case where a notice under the said section" shall be substituted;

(b) for clause (ii), the following clause shall be substituted, namely:—

"(ii) a proceeding for making fresh assessment in pursuance of an order under section 23A or section 24 or section 25, setting aside or cancelling an assessment shall be deemed to have been commenced from the date on which such order, setting aside or cancelling an assessment was passed;"

(c) in clause (iv), for the words, brackets and figures "clause (i) or clause (ii) of the proviso or clause (iii) of the *Explanation*", the words, brackets and figures "clause (i) or clause (ii) or clause (iii)" shall be substituted.

CHAPTER IV

INDIRECT TAXES

Customs

Substitution
of new
authorities.

78. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), or in any other law for the time being in force, the reference to any authority specified in column (1) of the Table below shall be substituted by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:—

TABLE

| Sl. No. | (1) | (2) |
|---------|-------------------------------|--|
| 1. | Chief Commissioner of Customs | Principal Chief Commissioner of Customs or Chief Commissioner of Customs |
| 2. | Commissioner of Customs | Principal Commissioner of Customs or Commissioner of Customs. |

79. In the Customs Act, in section 3, for clauses (a), (b), (c), (cc), (d), (e) and (f), the following clauses shall be substituted, namely:— Amendment of section 3.

- “(a) Principal Chief Commissioners of Customs;
- (b) Chief Commissioners of Customs;
- (c) Principal Commissioners of Customs;
- (d) Commissioners of Customs;
- (e) Commissioners of Customs (Appeals);
- (f) Joint Commissioners of Customs;
- (g) Deputy Commissioners of Customs;
- (h) Assistant Commissioners of Customs;
- (i) such other class of officers of customs as may be appointed for the purposes of this Act.”.

80. In the Customs Act, in section 15, in sub-section (1), in the proviso, after the words “the aircraft”, the words “or the vehicle” shall be inserted. Amendment of section 15.

81. In the Customs Act, in section 25, after sub-section (6), the following sub-sections shall be inserted, namely:— Amendment of section 25.

“(7) The mineral oils (including petroleum and natural gas) extracted or produced in the continental shelf of India or exclusive economic zone of India as referred to in section 6 and section 7, respectively, of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, and imported prior to the 7th day of February, 2002 shall be deemed to be and shall always be deemed to have been exempted from the whole of the duties of customs leviable on such mineral oils and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, no suit or other proceedings in respect of such mineral oils shall be maintained or continued in any court, tribunal or other authority.

(8) Notwithstanding the exemption provided under sub-section (7), no refund of duties of customs paid in respect of the mineral oils specified therein shall be made.”.

82. In the Customs Act, in section 46, in sub-section (3),—

- (i) the first proviso shall be omitted;
- (ii) for the second proviso, the following proviso shall be substituted, namely:—

“Provided that a bill of entry may be presented even before the delivery of such manifest or report, if the vessel or the aircraft or the vehicle by which the goods have been shipped for importation into India is expected to arrive within thirty days from the date of such presentation.”.

83. In the Customs Act, in section 127A, in clause (f), for the words “Customs and Central Excise Settlement Commission”, the words “Customs, Central Excise and Service Tax Settlement Commission” shall be substituted. Amendment of section 127A.

84. In the Customs Act, in section 127B,—

- (i) in sub-section (1), in the first proviso, for clause (a), the following clause shall be substituted, namely:— Amendment of section 127B.

“(a) the applicant has filed a bill of entry, or a shipping bill, or a bill of export, or made a baggage declaration, or a label or declaration accompanying the goods imported or exported through post or courier, as the case may be, and in relation to such document or documents, a show cause notice has been issued to him by the proper officer;”;

(ii) in clause (c), for the word, figures and letters "section 28AB", the word, figures and letters "section 28AA" shall be substituted;

(iii) sub-section (2) shall be omitted.

Amendment
of section
127L.

85. In the Customs Act, in section 127L, in sub-section (1), in clause (i), the following *Explanation* shall be inserted, namely:—

"*Explanation.*— In this clause, the concealment of particulars of duty liability relates to any such concealment made from the officer of customs."

Amendment
of section
129A.

86. In the Customs Act, in section 129A,—

(i) in sub-section (1), in the second proviso, for the words "fifty thousand rupees", the words "two lakh rupees" shall be substituted;

(ii) in sub-section (1B), in clause (i), for the words "by notification in the Official Gazette", the words "by order" shall be substituted;

(iii) in sub-section (7), in clause (a), the words "for grant of stay or" shall be omitted.

Amendment
of section
129B.

87. In the Customs Act, in section 129B, in sub-section (2A), the first, second and third proviso shall be omitted.

Amendment
of section
129D.

88. In the Customs Act, in section 129D, in sub-section (3), the following proviso shall be inserted, namely:—

"Provided that the Board may, on sufficient cause being shown, extend the said period by another thirty days."

Substitution
of new
section for
section 129E.

89. In the Customs Act, for section 129E, the following section shall substituted, namely:—

Deposit of
certain
percentage of
duty
demanded or
penalty
imposed
before filing
appeal.

"129E. The Tribunal or the Commissioner (Appeals), as the case may be, shall not entertain any appeal,—

(i) under sub-section (1) of section 128, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of a decision or an order passed by an officer of customs lower in rank than the Commissioner of Customs;

(ii) against the decision or order referred to in clause (a) of sub-section (1) of section 129A, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against;

(iii) against the decision or order referred to in clause (b) of sub-section (1) of section 129A, unless the appellant has deposited ten per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against:

Provided that the amount required to be deposited under this section shall not exceed rupees ten crores:

Provided further that the provisions of this section shall not apply to the stay applications and appeals pending before any appellate authority prior to the commencement of the Finance (No. 2) Act, 2014."

Substitution of
new section for
section 129EE.

90. In the Customs Act, for section 129EE, the following section shall be substituted, namely:—

Interest on
delayed refund
of amount
deposited
under section
129E.

"129EE. Where an amount deposited by the appellant under section 129E is required to be refunded consequent upon the order of the appellate authority, there shall be paid to the appellant interest at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such amount from the date of payment of the amount till, the date of refund of such amount:

Provided that the amount deposited under section 129E, prior to the commencement of the Finance (No. 2) Act, 2014, shall continue to be governed by the provisions of section 129EE as it stood before the commencement of the said Act."

Amendment
of section
131BA.

91. In the Customs Act, in section 131BA, in sub-section (4), for the words "The Appellate Tribunal or court", the words and brackets "The Commissioner (Appeals) or the Appellate Tribunal or the court" shall be substituted.

92. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 185 (E), dated the 17th March, 2012, issued under sub-section (1) of section 25 of the Customs Act, as specified in column (1) of the Second Schedule, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of that Schedule, on and from and up to the corresponding date specified in column (3) of the said Schedule.

Amendment of notification issued under section 25 of Customs Act.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 25 of the Customs Act retrospectively, at all material times.

(3) The refund shall be made of all such duty of customs which has been collected but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times, subject to the provision of section 27 of the Customs Act.

(4) Notwithstanding anything contained in section 27 of the Customs Act, an application for the claim of refund of duty of customs under sub-section (3) shall be made within the period of six months from the date on which the Finance (No. 2) Bill, 2014 receives the assent of the President.

(5) No act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had the notification referred to in sub-section (1) not been amended retrospectively.

Explanation.— For the purposes of sub-section (1), the “corresponding date”, in relation to tariff items specified against S.No.141, means the 8th February, 2013 to 10th July, 2014 (both days inclusive).

Customs Tariff

51 of 1975.

93. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in section 8B, in sub-section (2A),—

Amendment of section 8B.

(a) for the portion beginning with the words “unless specifically made applicable” and ending with the words “in a special economic zone”, the following shall be substituted, namely:—

“shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a special economic zone unless,—

(i) specifically made applicable in such notifications or such impositions, as the case may be; or

(ii) the article imported is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area and in such cases safeguard duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.”;

(b) in the *Explanation*, the words “free trade zone” shall be omitted.

94. In the Customs Tariff Act, the First Schedule shall be amended in the manner specified in the Third Schedule.

Amendment of First Schedule.

Excise

1 of 1944.
32 of 1994.

95. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act) or in Chapter V of the Finance Act, 1994 or in any other law for the time being in force, the reference to any authority specified in column (1) of the Table below shall be substituted by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:—

Substitution of new authorities.

TABLE

| Sl. No. | (1) | (2) |
|---------|--------------------------------------|--|
| 1. | Chief Commissioner of Central Excise | Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise |
| 2. | Commissioner of Central Excise | Principal Commissioner of Central Excise or Commissioner of Central Excise. |

Amendment
of section 2.

96. In the Central Excise Act, in section 2, in clause (b), for the words "Chief Commissioner of Central Excise", the words "Principal Chief Commissioner of Central Excise, Chief Commissioner of Central Excise, Principal Commissioner of Central Excise" shall be substituted.

Insertion of
new sections
15A and 15B.

97. In the Central Excise Act, after section 15, the following sections shall be inserted, namely:—

Obligation to
furnish
information
return.

"15A. (1) Any person, being—

(a) an assessee; or

(b) a local authority or other public body or association; or

(c) any authority of the State Government responsible for the collection of value added tax or sales tax; or

(d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or

43 of 1961.

(e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or

2 of 1934.

(f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or

36 of 2003.

(g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

16 of 1908.

(h) a Registrar within the meaning of the Companies Act, 2013; or

18 of 2013.

(i) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or

59 of 1988.

(j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or

30 of 2013.

(k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or

42 of 1956.

(l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or

22 of 1996.

(m) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934,

2 of 1934.

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details or transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, form (including electronic form) and manner, to such authority or agency as may be prescribed.

(2) Where the prescribed authority considers that the information submitted in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed authority may allow and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such information return shall be treated as not submitted and the provisions of this Act shall apply.

(3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the prescribed authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

15B. If a person who is required to furnish an information return under section 15A fails to do so within the period specified in the notice issued under sub-section (3) thereof, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such return continues.”.

Penalty for failure to furnish information return.

98. In the Central Excise Act, in section 31, in clause (g), for the words “Customs and Central Excise Settlement Commission”, the words “Customs, Central Excise and Service Tax Settlement Commission” shall be substituted.

Amendment of section 31.

99. In the Central Excise Act, in section 32, in sub-section (1), for the words “the Customs and Central Excise Settlement Commission”, the words “the Customs, Central Excise and Service Tax Settlement Commission” shall be substituted.

Amendment of section 32.

100. In the Central Excise Act, in section 32E,—

Amendment of section 32E.

(i) in sub-section (1),—

(a) in the first proviso, in clause (d), for the word, figures and letters “section 11AB”, the word, figures and letters “section 11AA” shall be substituted;

(b) in the second proviso, for the words “Provided further that”, the following shall be substituted, namely:—

“Provided further that the Settlement Commission, if it is satisfied that the circumstances exist for not filing the returns referred to in clause (a) of the first proviso to sub-section (1), may after recording the reasons therefor, allow the applicant to make such application:

Provided also that”;

(ii) sub-section (2) shall be omitted.

101. In the Central Excise Act, in section 32-O, in sub-section (1), in clause (i), the following *Explanation* shall be inserted, namely:—

Amendment of section 32-O.

“*Explanation.*— In this clause, the concealment of particulars of duty liability relates to any such concealment made from the Central Excise Officer.”.

102. In the Central Excise Act, in section 35B,—

Amendment of section 35B.

(a) in sub-section (1), in the second proviso, for the words “fifty thousand rupees”, the words “two lakh rupees” shall be substituted;

(b) in sub-section (1B), in clause (i), for the words “by notification in the Official Gazette”, the words “by order” shall be substituted;

(c) in sub-section (7), in clause (a), the words “for grant of stay or” shall be omitted.

103. In the Central Excise Act, in section 35C, in sub-section (2A), the first, second and third proviso shall be omitted.

Amendment of section 35C.

104. In the Central Excise Act, in section 35E, in sub-section (3), the following proviso shall be inserted, namely:—

Amendment of section 35E.

“Provided that the Board may, on sufficient cause being shown, extend the said period by another thirty days.”.

105. In the Central Excise Act, for section 35F, the following section shall be substituted, namely:—

Substitution of new section for section 35F.

Deposit of certain percentage of duty demanded or penalty imposed before filing appeal.

‘35F. The Tribunal or the Commissioner (Appeals), as the case may be, shall not entertain any appeal—

(i) under sub-section (1) of section 35, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of a decision or an order passed by an officer of Central Excise lower in rank than the Commissioner of Central Excise;

(ii) against the decision or order referred to in clause (a) of sub-section (1) of section 35B, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against;

(iii) against the decision or order referred to in clause (b) of sub-section (1) of section 35B, unless the appellant has deposited ten per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against:

Provided that the amount required to be deposited under this section shall not exceed rupees ten crores:

Provided further that the provisions of this section shall not apply to the stay applications and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

Explanation.— For the purposes of this section “duty demanded” shall include,—

(i) amount determined under section 11D;

(ii) amount of erroneous Cenvat credit taken;

(iii) amount payable under rule 6 of the Cenvat Credit Rules, 2001 or the Cenvat Credit Rules, 2002 or the Cenvat Credit Rules, 2004.’

Substitution of new section for section 35FF.

106. In the Central Excise Act, for section 35FF, the following section shall be substituted, namely:—

Interest on delayed refund of amount deposited under section 35F.

“35FF. Where an amount deposited by the appellant under section 35F is required to be refunded consequent upon the order of the appellate authority, there shall be paid to the appellant interest at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such amount from the date of payment of the amount till, the date of refund of such amount:

Provided that the amount deposited under section 35F, prior to the commencement of the Finance (No. 2) Act, 2014, shall continue to be governed by the provisions of section 35FF as it stood before the commencement of the said Act.”.

Amendment of section 35L.

107. In the Central Excise Act, section 35L shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) For the purposes of this Chapter, the determination of any question having a relation to the rate of duty shall include the determination of taxability or excisability of goods for the purpose of assessment.”.

Amendment of section 35R.

108. In the Central Excise Act, in section 35R, in sub-section (4), for the words “The Appellate Tribunal or court”, the words “The Commissioner (Appeals) or the Appellate Tribunal or court” shall be substituted.

Amendment of Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008.

109. (1) In the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008, as published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 127 (E), dated the 1st July, 2008, rule 8 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Fourth Schedule, on and from the date specified in column (3) of that Schedule.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under sub-sections (2) and (3) of section 3A of the Central Excise Act, retrospectively, at all material times.

(3) The refund shall be made of all such duty of excise which has been collected but

which would not have been so collected, had the rule referred to in sub-section (1), been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.

(4) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of duty of excise under sub-section (3) shall be made within a period of six months from the date on which the Finance (No. 2) Bill, 2014 receives the assent of the President.

(5) No act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had the rule referred to in sub-section (1) not been amended retrospectively.

110. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 95 (E), dated the 1st March, 2006 (herein referred to as the first notification) which was superseded *vide* number G.S.R. 163 (E), dated the 17th March, 2012 (herein referred to as the second notification), issued under sub-section (1) of section 5A of the Central Excise Act, shall, in so far as it relates to the first notification, stand amended and shall be deemed to have been amended retrospectively, in the manner as specified in column (2) of the Fifth Schedule, on and from—

Amendment of notification number G.S.R. 95(E), dated 1st March, 2006 issued under section 5A of Central Excise Act.

(a) the 29th June, 2010 and up to 16th March, 2012 (both days inclusive) in relation to Chapter 54 or Chapter 55 specified therein, covered under the first notification, that is the date prior to the date of the second notification; and

(b) the 1st March, 2011 and up to 16th March, 2012 (both days inclusive) in relation to Chapter 71 specified therein, covered under the first notification, that is the date prior to the date of the second notification,

as specified in column (3) of the Schedule, against the notification specified in column (1) of that Schedule.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the said notification with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 5A of the Central Excise Act, retrospectively, at all material times.

(3) The refund shall be made of all such duty of excise which has been collected but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.

(4) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of duty of excise under sub-section (3) shall be made within six months from the date on which the Finance (No. 2) Bill, 2014 receives the assent of the President.

(5) No act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had the said notification not been amended retrospectively.

111. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 163 (E), dated the 17th March, 2012, issued under sub-section (1) of section 5A of the Central Excise Act, as specified in column (1) of the Sixth Schedule, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of that Schedule, on and from and up to the corresponding dates specified in column (3) of the said Schedule.

Amendment of notification number G.S.R. 163(E), dated 17th March, 2012 issued under section 5A of Central Excise Act.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the said notification with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 5A of the Central Excise Act, retrospectively, at all material times.

(3) The refund shall be made of all such duty of excise which has been collected but which would not have been so collected, had the notification referred to in sub-section (1) been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.

(4) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of duty of excise under sub-section (3) shall be made

within six months from the date on which the Finance (No. 2) Bill, 2014 receives the assent of the President.

(5) No act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had the said notification not been amended retrospectively.

Explanation.— For the purposes of sub-section (1), the “corresponding date” in relation to—

(i) tariff items specified against S.No.81, means the 8th February, 2013 to 10th July, 2014 (both days inclusive); and

(ii) Chapters specified against S.No.172A, means the 17th March, 2012 to 10th July, 2014 (both days inclusive).

Amendment
of Third
Schedule.

112. In the Central Excise Act, the Third Schedule shall be amended in the manner specified in the Seventh Schedule.

Central Excise Tariff

Amendment
of First
Schedule.

113. In the Central Excise Tariff Act, 1985, the First Schedule shall be amended in the manner specified in the Eighth Schedule. 5 of 1986.

CHAPTER V

SERVICE TAX

Amendment
of Act 32 of
1994.

114. In the Finance Act, 1994,—

(A) in section 65B, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(i) in clause (32), after the words “the rules made thereunder”, the words “but does not include radio taxi” shall be inserted;

(ii) after clause (39), the following clause shall be inserted, namely:—

“(39a) “print media” means,—

(i) “book” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes; 25 of 1867.

(ii) “newspaper” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867; 25 of 1867.

(B) in section 66D, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(i) for clause (g), the following clause shall be substituted, namely:—

“(g) selling of space for advertisements in print media;”;

(ii) in clause (o), for sub-clause (vi), the following sub-clause shall be substituted, namely:—

“(vi) metered cabs or auto rickshaws;”;

(C) in section 67A, for the *Explanation*, the following *Explanation* shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—

“*Explanation.*—For the purposes of this section, “rate of exchange” means the rate of exchange determined in accordance with such rules as may be prescribed.”;

(D) in section 73, after sub-section (4A), the following sub-section shall be inserted, namely:—

“(4B) The Central Excise Officer shall determine the amount of service tax due under sub-section (2)—

(a) within six months from the date of notice where it is possible to do so, in respect of cases whose limitation is specified as eighteen months in sub-section (1);

(b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under the proviso to sub-section (1) or the proviso to sub-section (4A).”;

(E) in section 80, in sub-section (1), for the words, figures and brackets “section 77 or first proviso to sub-section (1) of section 78”, the words and figures “or section 77” shall be substituted;

(F) in section 82, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise or such other Central Excise officer as may be notified by the Board has reasons to believe that any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Chapter, are secreted in any place, he may authorise in writing any Central Excise officer to search for and seize or may himself search and seize such documents or books or things.”;

(G) in section 83,—

(i) for the words, brackets, figures and letter “sub-section (2) of section 9A”, the words, brackets, figures and letters “sub-section (2A) of section 5A, sub-section (2) of section 9A” shall be substituted;

(ii) for section “15”, the sections “15, 15A, 15B” shall be substituted;

(H) in section 86,—

(i) in sub-section (1A), in clause (i), for the words “by notification in the Official Gazette”, the words “by order” shall be substituted;

(ii) in sub-section (6A), in clause (a), the words “for grant of stay or” shall be omitted;

(I) in section 87, in clause (c), the following proviso shall be inserted, namely:—

“Provided that where the person (hereinafter referred to as predecessor) from whom the service tax or any other sums of any kind, as specified in this section, is recoverable or due, transfers or otherwise disposes of his business or trade in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in such business or trade by any other person, all goods, in the custody or possession of the person so succeeding may also be attached and sold by such officer empowered by the Central Board of Excise and Customs, after obtaining the written approval of the Commissioner of Central Excise, for the purposes of recovering such service tax or other sums recoverable or due from such predecessor at the time of such transfer or otherwise disposal or change.”;

(J) in section 94, in sub-section (2), for clause (k), the following clauses shall be substituted, namely:—

“(k) imposition, on persons liable to pay service tax, for the proper levy and collection of the tax, of duty of furnishing information, keeping records and the manner in which such records shall be verified;

(l) make provisions for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on provider of taxable service or exporter, for dealing with evasion of tax or misuse of CENVAT credit;

(m) authorisation of the Central Board of Excise and Customs or Chief Commissioners of Central Excise to issue instructions, for any incidental or supplemental matters for the implementation of the provisions of this Act;

(n) any other matter which by this Chapter is to be or may be prescribed.”;

(K) in section 95, after sub-section (lJ), the following sub-section shall be inserted, namely:—

“(lK) If any difficulty arises in giving effect to section 114 of the Finance (No. 2) Act, 2014, in so far as it relates to amendments made by the said Act, in this Chapter, the Central Government may, by an order, published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance (No. 2) Bill, 2014 receives the assent of the President.”;

(L) after section 99, the following section shall be inserted, namely:—

“100. Notwithstanding anything contained in section 66 as it stood prior to the 1st day of July, 2012, no service tax shall be levied or collected in respect of taxable services provided by the Employees’ State Insurance Corporation set up under the Employees’ State Insurance Act, 1948, during the period prior to the 1st day of July, 2012.”

34 of 1948.

CHAPTER VI

Miscellaneous

Special provision
for taxable services
provided by
Employees’ State
Insurance
Corporation.

Amendment
of Act 14 of
2001.

Amendment
of section 13
of Act 58 of
2002.

Amendment
of Finance
(No. 2) Act,
2004.

115. In the Seventh Schedule to the Finance Act, 2001, the tariff item 2402 20 60 and the entries relating thereto shall be omitted.

116. In the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, in section 13, in sub-section (l), for the words, figures and letters “the 31st day of March, 2014”, the words, figures and letters “the 31st day of March, 2019” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2014.

117. In the Finance (No. 2) Act, 2004, in Chapter VII, with effect from the 1st day of October, 2014,—

23 of 2004.

(A) in section 97,—

(i) after clause (3), the following clause shall be inserted, namely:—

“(3A) “business trust” shall have the meaning assigned to it in clause (13A) of section 2 of the Income-tax Act, 1961;”;

43 of 1961.

(ii) in clause (13), in sub-clause (a), after the words “unit of an equity oriented fund”, the words “or a unit of a business trust” shall be inserted;

(B) in section 98, in the Table, in column (2),—

(I) in the entry at Sl. No. 1,—

(i) after the words “equity share in a company”, the words “or a unit of a business trust” shall be inserted;

(ii) in clause (b), after the word “share” at both the places where it occurs, the words “or unit” shall be inserted;

(II) in the entry at Sl.No. 2,—

(i) after the words “equity share in a company”, the words “or a unit of a business trust” shall be inserted;

(ii) in clause (b), after the word “share” at both the places where it occurs, the words “or unit” shall be inserted;

(III) in the entry at Sl.No. 3, after the words “unit of an equity oriented fund”, the words “or a unit of a business trust” shall be inserted.

118. In the Finance Act, 2005,—

Amendment
of Act 18 of
2005.

(a) in section 85, in the marginal heading, for the brackets and words “(pan masala and certain tobacco products)”, the words “on certain goods” shall be substituted;

(b) the Seventh Schedule shall be amended in the manner specified in the Ninth Schedule.

119. In the Finance Act, 2010, in section 83, in sub-section (3), for the portion beginning with the words “for the purposes of” and ending with the words “for any other purpose relating thereto”, the following shall be substituted, namely:—

Amendment
of Act 14 of
2010.

“for the purposes of financing and promoting clean environment and energy initiatives, funding research in the area of clean environment or clean energy, or for any other purpose relating thereto.”.

11 of 2014.

120. The Finance Act, 2014 is hereby repealed and shall be deemed never to have been enacted. Repeal.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 2,00,000 | Nil; |
| (2) where the total income exceeds Rs. 2,00,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,00,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 30,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 10,00,000 | Rs. 1,30,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 2,50,000 | Nil; |
| (2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,50,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 10,00,000 | Rs. 1,25,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 5,00,000 | Nil; |
| (2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (3) where the total income exceeds Rs. 10,00,000 | Rs. 1,00,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | | |
|-----|---|--|
| (1) | where the total income does not exceed Rs.10,000 | 10 per cent. of the total income; |
| (2) | where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000 | Rs.1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs.10,000; |
| (3) | where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

| | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

| | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.:

(ii) on the balance, if any, of the total income

40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for the purposes of the Union calculated,—

(i) in the case of every domestic company—

(a) having a total income exceeding one crore rupees, but not exceeding ten crore rupees, at the rate of five per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

| | <i>Rate of income-tax</i> |
|--|---------------------------|
| 1. In the case of a person other than a company— | |
| (a) where the person is resident in India— | |
| (i) on income by way of interest other than “Interest on securities” | 10 per cent.; |
| (ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent.; |
| (iii) on income by way of winnings from horse races | 30 per cent.; |
| (iv) on income by way of insurance commission | 10 per cent.; |
| (v) on income by way of interest payable on— | 10 per cent.; |
| (A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act; | |
| (B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder; | |
| (C) any security of the Central or State Government; | |
| (vi) on any other income | 10 per cent.; |
| (b) where the person is not resident in India— | |
| (i) in the case of a non-resident Indian— | |
| (A) on any investment income | 20 per cent.; |
| (B) on income by way of long-term capital gains referred to in section 115E or sub-clause (iii) of clause (c) of sub-section (1) of section 112 | 10 per cent.; |
| (C) on income by way of short-term capital gains referred to in section 111A | 15 per cent.; |
| (D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] | 20 per cent.; |
| (E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC) | 20 per cent.; |
| (F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any | 25 per cent.; |

| | <i>Rate of income-tax</i> |
|---|---------------------------|
| computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India | |
| (G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy | 25 per cent.; |
| (H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy | 25 per cent.; |
| (I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent.; |
| (J) on income by way of winnings from horse races | 30 per cent.; |
| (K) on the whole of the other income | 30 per cent.; |
| (ii) in the case of any other person— | |
| (A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC) | 20 per cent.; |
| (B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India | 25 per cent.; |
| (C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy | 25 per cent.; |
| (D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved | 25 per cent.; |

| | <i>Rate of income-tax</i> |
|--|---------------------------|
| by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy | |
| (E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent.; |
| (F) on income by way of winnings from horse races | 30 per cent.; |
| (G) on income by way of short-term capital gains referred to in section 111A | 15 per cent.; |
| (H) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (I) of section 112 | 10 per cent.; |
| (I) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] | 20 per cent.; |
| (J) on the whole of the other income | 30 per cent.; |
| 2. In the case of a company— | |
| (a) where the company is a domestic company— | |
| (i) on income by way of interest other than “Interest on securities” | 10 per cent.; |
| (ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent.; |
| (iii) on income by way of winnings from horse races | 30 per cent.; |
| (iv) on any other income | 10 per cent.; |
| (b) where the company is not a domestic company— | |
| (i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent.; |
| (ii) on income by way of winnings from horse races | 30 per cent.; |
| (iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC) | 20 per cent.; |
| (iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India | 25 per cent.; |
| (v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy— | |

| | <i>Rate of income-tax</i> |
|--|---------------------------|
| (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 | 50 per cent.; |
| (B) where the agreement is made after the 31st day of March, 1976 | 25 per cent.; |
| (vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy— | |
| (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 | 50 per cent.; |
| (B) where the agreement is made after the 31st day of March, 1976 | 25 per cent.; |
| (vii) on income by way of short-term capital gains referred to in section 111A | 15 per cent.; |
| (viii) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112 | 10 per cent.; |
| (ix) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] | 20 per cent.; |
| (x) on any other income | 40 per cent. |

Explanation.— For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(i) item 1 of this Part, shall be increased by a surcharge, for the purposes of the Union, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act or co-operative society or firm or local authority, being a non-resident, calculated at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(ii) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated,—

(a) at the rate of two per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees; and

(b) at the rate of five per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head “Salaries” under section 192 of the said

Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or section 115JC or Chapter XII-FA or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115BBD or section 115BBE or section 115E or section 115JB or section 115JC] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | | |
|-----|---|---|
| (1) | where the total income does not exceed | Nil; Rs. 2,50,000 |
| (2) | where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,50,000; |
| (3) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) | where the total income exceeds Rs. 10,00,000 | Rs. 1,25,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

- | | | |
|-----|---|---|
| (1) | where the total income does not exceed | Nil; Rs. 3,00,000 |
| (2) | where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (3) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 20,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) | where the total income exceeds Rs. 10,00,000 | Rs. 1,20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

- | | | |
|-----|---|---|
| (1) | where the total income does not exceed | Nil; Rs. 5,00,000 |
| (2) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (3) | where the total income exceeds Rs. 10,00,000 | Rs. 1,00,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every individual or Hindu undivided family or association of

persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | | |
|-----|--|--|
| (1) | where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) | where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) | where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

| | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

| | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, be increased by a surcharge for the purposes of the Union calculated,—

(i) in the case of every domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of five per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART IV

[See section 2(13)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from other sources” and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head “Profits and gains of business or profession” and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from house property” and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2014, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2014.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2015, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect

of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous year relevant to the assessment years commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2015.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) or of the First Schedule to the Finance (No.2) Act, 2009 (33 of 2009) or of the First Schedule to the Finance Act, 2010 (14 of 2010) or of the First Schedule to the Finance Act, 2011 (8 of 2011) or of the First Schedule to the Finance Act, 2012 (23 of 2012) or of the First Schedule to the Finance Act, 2013 (17 of 2013) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE
(See section 92)

| Notification No. | Amendment and date | | Period of effect of amendment | | |
|---|---|---|--|-----|-----|
| (1) | (2) | | (3) | | |
| G.S.R.185(E), dated the 17th March, 2012[12/2012-Customs, dated the 17th March, 2012] | In the said notification, in the Table, for S. No. 141 and the entries relating thereto, the following S. No. and entries shall be substituted and shall be deemed to have been substituted with effect from the date specified in column (3), namely:— | | From 8th February, 2013 to 10th July, 2014 (both days inclusive) | | |
| (1) | (2) | (3) | (4) | (5) | (6) |
| "141 | 2711 12 00, 2711 13 00, 2711 19 00 | Liquefied propane and butane mixture, liquefied propane, liquefied butane and liquefied petroleum gases (LPG) imported by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited for supply to household domestic consumers or to non-domestic exempted category (NDEC) customers. | Nil | - | -"; |

THE THIRD SCHEDULE

(See section 94)

In the First Schedule to the Customs Tariff Act,—

- (1) in Chapter 24, the tariff item 2402 20 60 and the entries relating thereto shall be omitted;
- (2) in Chapter 40, in tariff item 4015 90 20, for the entry in column (3), the entry “kg.” shall be substituted;
- (3) in Chapter 41, for the entry in column (3) occurring against all the tariff items of heading 4102, the entry “kg.” shall be substituted;
- (4) in Chapter 49, for the entry in column (3) occurring against all the tariff items of headings 4901, 4909 and 4910, the entry “u” shall be substituted;
- (5) in Chapter 73, for the entry in column (3) occurring against all the tariff items of headings 7308, 7323 and 7324, the entry “u” shall be substituted;
- (6) in Chapter 82, for the entry in column (3) occurring against all the tariff items of headings 8205 and 8208, the entry “u” shall be substituted;
- (7) in Chapter 83, for the entry in column (3) occurring against all the tariff items of heading 8301, the entry “u” shall be substituted;
- (8) in Chapter 84,—
 - (i) for the entry in column (3) occurring against all the tariff items of headings 8405 and 8466, the entry “u” shall be substituted;
 - (ii) in tariff items 8418 61 00, 8418 69 10, 8418 69 20, 8418 69 30, 8418 69 40, 8418 69 50, 8418 69 90, 8421 91 00, 8421 99 00, 8432 80 10, 8432 80 20, 8432 80 90, 8432 90 10, 8432 90 90, 8473 30 10, 8473 30 20, 8473 30 30, 8473 30 40, 8473 30 91, 8473 30 92, 8473 30 99, 8473 40 10, 8473 40 90, 8473 50 00 and 8483 90 00, for the entry in column (3) against each of them, the entry “u” shall be substituted;
- (9) in Chapter 85,—
 - (i) for the entry in column (3) occurring against all the tariff items of headings 8503, 8529, 8532, 8533, 8534, 8535 and 8536, the entry “u” shall be substituted;
 - (ii) for the entries in column (4) occurring against tariff items 8517 62 90 and 8517 69 90, the entry “10%” shall be substituted;
 - (iii) in tariff items 8517 70 10, 8518 90 00 and 8538 10 10, for the entry in column (3) against each of them, the entry “u” shall be substituted;
 - (iv) for the entry in column (3) occurring against all the tariff items of heading 8544, the entry “m” shall be substituted;
- (10) in Chapter 90, in tariff items 9004 90 90, 9005 80 90, 9026 90 00, 9031 10 00, 9031 20 00, 9031 41 00, 9031 49 00 and 9031 90 00, for the entry in column (3) against each of them, the entry “u” shall be substituted;
- (11) in Chapter 91, in tariff items 9110 12 00, 9110 19 00, 9110 90 00 and 9113 10 00, for the entry in column (3) against each of them, the entry “u” shall be substituted.

THE FOURTH SCHEDULE

(See section 109)

| Provisions of the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 to be amended | Amendment | Date of effect of amendment |
|--|--|-----------------------------|
| (1) | (2) | (3) |
| Rule 8 of the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008, published <i>vide</i> notification number G.S.R.127 (E), dated the 1st July, 2008 [30/2008-Central Excise (N.T.), dated the 1st July, 2008] | In the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008, in rule 8, for the first proviso, the following proviso shall be substituted with effect from the date specified in column (3), namely:— “Provided that where a manufacturer uses an operating machine to produce pouches of different retail sale prices during a month, he shall be liable to pay the duty applicable to the pouch bearing the highest retail sale price for the whole month:”. | 13th April, 2010. |

THE FIFTH SCHEDULE

(See section 110)

| Notification No. and date | Amendment | Period of effect of amendment | | | | | | | | | | |
|---|--|---|----------------|--------------|---|-----|-----|----------|---|----------------|--------------|--|
| (1) | (2) | (3) | | | | | | | | | | |
| G.S.R. 95(E), dated the 1st March, 2006 [5/2006-Central Excise, dated the 1st March, 2006] | (1) In the said notification, in the Table, after serial number 2B and the entries relating thereto, the following serial number and entries shall be inserted and shall be deemed to have been inserted with effect from the date and up to the period specified in column (3), namely:— | 29th June, 2010 to 16th March, 2012 (both days inclusive) | | | | | | | | | | |
| | <table><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th><th>(5)</th></tr><tr><td>"2C</td><td>54 or 55</td><td>(1) Polyester staple fibre or polyester filament yarn manufactured from plastic scrap or plastic waste including waste polyethylene terephthalate bottles (2) Tow manufactured and captively consumed within the factory of its production for the manufacture of goods specified in entry (1)</td><td>Nil Nil</td><td>- -";</td></tr></table> | (1) | (2) | (3) | (4) | (5) | "2C | 54 or 55 | (1) Polyester staple fibre or polyester filament yarn manufactured from plastic scrap or plastic waste including waste polyethylene terephthalate bottles (2) Tow manufactured and captively consumed within the factory of its production for the manufacture of goods specified in entry (1) | Nil Nil | - -"; | |
| (1) | (2) | (3) | (4) | (5) | | | | | | | | |
| "2C | 54 or 55 | (1) Polyester staple fibre or polyester filament yarn manufactured from plastic scrap or plastic waste including waste polyethylene terephthalate bottles (2) Tow manufactured and captively consumed within the factory of its production for the manufacture of goods specified in entry (1) | Nil Nil | - -"; | | | | | | | | |
| | (2) In the said notification, in the Table, against Chapter 71 of Sl.No. 24, in columns (3), (4) and (5), the following entries shall be inserted and shall be deemed to have been inserted with effect from the date and up to the period specified in column (3), namely:— | 1st March, 2011 to 16th March, 2012 (both days inclusive) | | | | | | | | | | |
| | <table><tr><th>(3)</th><th>(4)</th><th>(5)</th></tr><tr><td>"(I) Articles of — (a) gold, (b) silver, (c) platinum, (d) palladium, (e) rhodium, (f) iridium, (g) osmium, or (h) ruthenium, not bearing a brand name</td><td>Nil</td><td>8";</td></tr></table> | (3) | (4) | (5) | "(I) Articles of — (a) gold, (b) silver, (c) platinum, (d) palladium, (e) rhodium, (f) iridium, (g) osmium, or (h) ruthenium, not bearing a brand name | Nil | 8"; | | | | | |
| (3) | (4) | (5) | | | | | | | | | | |
| "(I) Articles of — (a) gold, (b) silver, (c) platinum, (d) palladium, (e) rhodium, (f) iridium, (g) osmium, or (h) ruthenium, not bearing a brand name | Nil | 8"; | | | | | | | | | | |

THE SIXTH SCHEDULE

(See section 111)

| Notification No. and date | Amendment | | Period of effect of amendment | |
|---|---|---|--|---------|
| (1) | (2) | | (3) | |
| G.S.R. 163(E), dated the 17th March, 2012 [12/2012-Central Excise, dated the 17th March, 2012] | (1) In the said notification, in the Table, for serial number 81 and the entries relating thereto, the following serial number and entries shall be substituted and shall be deemed to have been substituted with effect from the date and up to the period specified in column (3), namely:— | | From 8th February, 2013 to 10th July, 2014 (both days inclusive) | |
| | (1) | (2) | (3) | (4) (5) |
| 81 | 2711 12 00. 2711 13 00. 2711 19 00 | Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (LPG) for supply to household domestic consumers or to Non-Domestic Exempted Category (NDEC) customers by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited | Nil | - |
| | (2) In the said notification, in the Table, for serial number 172A and the entries relating thereto, the following serial number and entries shall be substituted and shall be deemed to have been substituted with effect from the date and up to the period specified in column (3), namely:— | | From 17th March, 2012 to 10th July, 2014 (both days inclusive) | |
| | (1) | (2) | (3) | (4) (5) |
| 172A | 54 or 55 | (1) Polyester staple fibre or polyester filament yarn manufactured from plastic scrap or plastic waste including waste polyethylene terephthalate bottles (2) Tow manufactured and captively consumed within the factory of its production for the manufacture of goods specified in entry (1) | Nil | - |

THE SEVENTH SCHEDULE

(See section 112)

In the Third Schedule to the Central Excise Act,—

(i) in S.No. 15, for the entry in column (2), the entry “2101 11 or 2101 12 00” shall be substituted;

(ii) after S.No. 30 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

| S.No. | Heading, sub-heading or tariff item | Description of goods |
|-------|-------------------------------------|---|
| (1) | (2) | (3) |
| 30A. | 3002 20 or 3002 30 00 | Vaccines (other than those specified under the National Immunisation Program)”; |

(iii) after S.No. 36 and the entries relating thereto, the following S. Nos. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|------|------------|------------------|
| 36A. | 3215 90 10 | Fountain pen ink |
| 36B. | 3215 90 20 | Ball pen ink |
| 36C. | 3215 90 40 | Drawing ink”; |

(iv) after S.No. 38 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|------|------------|----------------|
| 38A. | 3306 10 10 | Tooth powder”; |

(v) after S.No. 53 and the entries relating thereto, the following S. Nos. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|------|----------|---|
| 53A. | 39 or 40 | Nipples for feeding bottles |
| 53B. | 4015 | Surgical rubber gloves or medical examination rubber gloves”; |

(vi) after S.No. 62 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|------|-----------------------------------|--|
| 62A. | 7310 or 7326 or any other Chapter | Mathematical boxes, geometry boxes and colour boxes, pencil sharpeners”; |

(vii) after S.No. 65 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|------|------|-------------|
| 65A. | 8215 | All goods”; |

(viii) in S.No.68, for the entry in column (3), the entry “All goods except goods specified in sub-heading 8415 20” shall be substituted;

(ix) for S.No.69 and the entries relating thereto, the following S.No. and entries shall be substituted, namely:—

| (1) | (2) | (3) |
|-----|---|-------------|
| 69. | 8418 21 00, 8418 29 00, 8418 30 90, 8418 69 20 | All goods”; |

(x) in S.No.70, for the entry in column (2), the entry "8421 21" shall be substituted;

(xi) after S.No. 70 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|-------|------------------------|--|
| "70A. | 8421 21 20, 8421 99 00 | Water filters functioning without electricity and replaceable kits thereof"; |

(xii) in S.No.73, for the entry in column (3), the entry "Typewriters" shall be substituted;

(xiii) in S.No.76, for the entry in column (3), the entry "All goods other than parts falling under tariff item 8506 90 00" shall be substituted;

(xiv) in S.No.76A, for the entry in column (3), the entry "All goods other than parts falling under tariff item 8508 70 00" shall be substituted;

(xv) in S.No.77, for the entry in column (3), the entry "All goods other than parts falling under tariff item 8509 90 00" shall be substituted;

(xvi) in S.No.78, for the entry in column (3), the entry "All goods other than parts falling under tariff item 8510 90 00" shall be substituted;

(xvii) in S.No.79, for the entry in column (3), the entry "All goods other than parts falling under tariff item 8513 90 00" shall be substituted;

(xviii) in S.No.81, for the entry in column (3), the entry "Telephone sets including telephones with cordless handsets and for cellular networks or for other wireless networks; videophones" shall be substituted;

(xix) after S.No. 81B and the entries relating thereto, the following S. No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|-------|------|---|
| "81C. | 8517 | Wireless data modem cards with PCMCIA or USB or PCI express ports"; |

(xx) in S.No.84, for the entry in column (3), the entry "All goods except goods specified in tariff items 8523 21 00, 8523 29 60 to 8523 29 90, 8523 41 20 to 8523 41 50, 8523 49 30, 8523 49 50 to 8523 49 90, 8523 52 10, 8523 59, 8523 80 20, 8523 80 30 and 8523 80 60" shall be substituted;

(xxi) after S.No. 84 and the entries relating thereto, the following S.No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|-------|------------|---------------------------------------|
| "84A. | 8523 80 20 | Packaged software or canned software. |

Explanation.—For the purposes of this Schedule, "Packaged software or canned software" means a software developed to meet the needs of variety of users, and which is intended for sale or capable of being sold off the shelf.;

(xxii) for S.No.89 and the entries relating thereto, the following S.No. and entries shall be substituted, namely:—

| (1) | (2) | (3) |
|------|-----------------|--|
| "89. | 8517 or 8525 60 | Mobile handsets including Cellular Phones and Radio trunking terminals"; |

(xxiii) in S.No.94, for the entry in column (3), the entry "All goods except lamps for automobiles" shall be substituted;

(xxiv) after S.No. 94 and the entries relating thereto, the following S.No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|-------|------------------|---|
| “94A. | Chapter 84 or 85 | Goods capable of performing two or more functions of items specified at S.Nos. 67 to 94”; |

(xxv) after S.No. 99 and the entries relating thereto, the following S.No. and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|-------|------|-------------|
| “99A. | 9619 | All goods”. |

THE EIGHTH SCHEDULE
(See section 113)

In the First Schedule to the Central Excise Tariff Act, 1985,—

1. in Chapter 24,—

(a) for the entries in column (4) occurring against tariff items 2401 10 10, 2401 10 20, 2401 10 30, 2401 10 40, 2401 10 50, 2401 10 60, 2401 10 70, 2401 10 80, 2401 10 90, 2401 20 10, 2401 20 20, 2401 20 30, 2401 20 40, 2401 20 50, 2401 20 60, 2401 20 70, 2401 20 80 and 2401 20 90, the entry “55%” shall be substituted;

(b) in tariff items 2402 10 10 and 2402 10 20, for the entry in column (4), the entry “12 % or Rs. 2250 per thousand, whichever is higher” shall be substituted;

(c) in tariff item 2402 20 10, for the entry in column (4), the entry “Rs. 990 per thousand” shall be substituted;

(d) in tariff item 2402 20 20, for the entry in column (4), the entry “Rs. 1995 per thousand” shall be substituted;

(e) in tariff item 2402 20 30, for the entry in column (4), the entry “Rs. 990 per thousand” shall be substituted;

(f) in tariff item 2402 20 40, for the entry in column (4), the entry “Rs. 1490 per thousand” shall be substituted;

(g) in tariff item 2402 20 50, for the entry in column (4), the entry “Rs. 1995 per thousand” shall be substituted;

(h) the tariff item 2402 20 60 and the entries relating thereto shall be omitted;

(i) in tariff item 2402 90 10, for the entry in column (4), the entry “Rs. 2250 per thousand” shall be substituted;

(j) in tariff items 2402 90 20 and 2402 90 90, for the entry in column (4), the entry “12% or Rs. 2250 per thousand, whichever is higher” shall be substituted;

(k) in the heading 2403, in sub-heading 2403 19, after the tariff item 2403 19 10, for the tariff item occurring as “2403 19”, the tariff item “2403 19 21” shall be substituted;

(l) for the entries in column (4) occurring against tariff items 2403 99 10, 2403 99 30 and 2403 99 90, the entry “70%” shall be substituted;

2. in Chapter 40, in tariff item 4015 90 20, for the entry in column (3), the entry “kg.” shall be substituted;

3. in Chapter 41, for the entry in column (3) occurring against all the tariff items of heading 4102, the entry “kg.” shall be substituted;

4. in Chapter 49, for the entry in column (3) occurring against all the tariff items of headings 4901, 4909 and 4910, the entry “u” shall be substituted;

5. in Chapter 73, for the entry in column (3) occurring against all the tariff items of headings 7308, 7323 and 7324, the entry “u” shall be substituted;

6. in Chapter 82, for the entry in column (3) occurring against all the tariff items of headings 8205 and 8208, the entry “u” shall be substituted;

7. in Chapter 83, for the entry in column (3) occurring against all the tariff items of heading 8301, the entry “u” shall be substituted;

8. in Chapter 84,—

(i) for the entry in column (3) occurring against all the tariff items of headings 8405 and 8466, the entry “u” shall be substituted;

(ii) in tariff items 8418 61 00, 8418 69 10, 8418 69 20, 8418 69 30, 8418 69 40, 8418 69 50, 8418 69 90, 8421 91 00, 8421 99 00, 8432 80 10, 8432 80 20, 8432 80 90, 8432 90 10, 8432 90 90, 8473 30 10, 8473 30 20, 8473 30 30, 8473 30 40, 8473 30 91, 8473 30 92, 8473 30 99, 8473 40 10, 8473 40 90, 8473 50 00 and 8483 90 00, for the entry in column (3) against each of them, the entry “u” shall be substituted;

9. in Chapter 85,—

(i) for the entry in column (3) occurring against all the tariff items of headings 8503, 8529, 8532, 8533, 8534, 8535 and 8536, the entry “u” shall be substituted;

(ii) in tariff items 8517 70 10, 8518 90 00 and 8538 10 10, for the entry in column (3) against each of them, the entry “u” shall be substituted;

(iii) for the entry in column (3) occurring against all the tariff items of heading 8544, the entry “m” shall be substituted;

10. in Chapter 90, in tariff items 9004 90 90, 9005 80 90, 9026 90 00, 9031 10 00, 9031 20 00, 9031 41 00, 9031 49 00 and 9031 90 00, for the entry in column (3) against each of them, the entry “u” shall be substituted;

11. in Chapter 91, in tariff items 9110 12 00, 9110 19 00, 9110 90 00 and 9113 10 00 for the entry in column (3) against each of them, the entry “u” shall be substituted.

THE NINTH SCHEDULE

[See section 118 (b)]

In the Seventh Schedule to the Finance Act, 2005,—

(i) after tariff item 2106 90 20 and the entries relating thereto, the following sub-heading and entries shall be inserted, namely:—

| Tariff item | Description of goods | Unit | Rate of duty |
|-------------|--|------|--------------|
| (1) | (2) | (3) | (4) |
| “2202 10 | Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured; | l | 5%”; |

(ii) tariff item 2402 20 60 and the entries relating thereto shall be omitted.

Sd/-

Dr. Sanjay Singh,,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 7th February, 2015.

No. RPB/215-2015/Act-27-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 22nd August, 2014, Shraawan 31, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 22nd August, 2014 is hereby published for general information :-

THE SECURITIES LAWS (AMENDMENT) ACT, 2014

AN

(Act No. 27 of 2014)

ACT

[22nd August, 2014.]

further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Securities Laws (Amendment) Act, 2014.

(2) Save as otherwise provided, the provisions of this Act, except clause (ii) of section 5, section 6 to section 16, section 25 to section 33, section 36 and section 41 to section 48, shall be deemed to have come into force on the 18th day of July, 2013.

(3) The provisions of clause (ii) of section 5, section 16, section 33, section 36 and section 48 of this Act shall be deemed to have come into force on the 28th day of March, 2014.

(4) The provisions of section 6 to section 15, section 25 to section 32 and section 41 to section 47 of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title
and com-
mencement.

CHAPTER II

AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Amendment
of section 11.

2. In section 11 of the Securities and Exchange Board of India Act, 1992 (hereafter in this Chapter referred to as the principal Act),—

15 of 1992.

(i) in sub-section (2),—

(a) for clause (ia), the following clause shall be substituted, namely:—

“(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;”;

(b) after clause (ia), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 6th day of March, 1998, namely:—

“(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;”;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The amount disgorged, pursuant to a direction issued, under section 11B of this Act or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996, as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Act.”

42 of 1956.
22 of 1996.Amendment
of section
11AA.

3. In section 11AA of the principal Act,—

(i) in sub-section (1),—

(a) after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (2A)” shall be inserted;

(b) the following proviso shall be inserted, namely:—

“Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.”;

(ii) in sub-section (2), in the opening portion, for the word “company”, the word “person” shall be substituted;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.”;

(iv) in sub-section (3),—

(a) after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (2A)” shall be inserted;

(b) after clause (viii), the following clause shall be inserted, namely:—

“(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify.”

4. In section 11B of the principal Act, the following *Explanation* shall be inserted, namely:—

Amendment
of section
11B.

“*Explanation.*—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”

5. In section 11C of the principal Act,—

Amendment
of section
11C.

(i) in sub-section (8), for the words “the Judicial Magistrate of the first class having jurisdiction”, the words “the Magistrate or Judge of such designated court in Mumbai, as may be notified by the Central Government” shall be substituted;

(ii) after sub-section (8), the following sub-section shall be inserted, namely:—

“(8A) The authorised officer may requisition the services of any police officer or any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (8) and it shall be the duty of every such officer to comply with such requisition.”;

(iii) in sub-section (9), for the words “the Magistrate” occurring at both the places, the words “the Magistrate or Judge of the Designated Court” shall be substituted;

(iv) in sub-section (10), for the words “the Magistrate”, the words “the Magistrate or Judge of the Designated Court” shall be substituted.

6. In section 15A of the principal Act, in clauses (a), (b) and (c), for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of
section 15A.

7. In section 15B of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of section
15B.

8. In section 15C of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.

Amendment
of section
15C.

9. In section 15D of the principal Act,—

Amendment
of section
15D.

(i) in clause (a), for the words “of one lakh rupees for each day during which he sponsors or carries on any collective investment scheme including mutual funds, or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds subject to a maximum of one crore rupees” shall be substituted;

(ii) in clauses (b), (c), (d), (e) and (f), for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh

rupees for each day during which such failure continues subject to a maximum of one crore rupees" shall be substituted.

Amendment
of section
15E.

10. In section 15E of the principal Act, for the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less", the words "which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees" shall be substituted.

Amendment
of section 15F.

11. In section 15F of the principal Act,—

(i) in clause (a), for the words "a penalty not exceeding five times the amount", the words, "a penalty which shall not be less than one lakh rupees but which may extend to" shall be substituted;

(ii) in clause (b), for the words "of one lakh rupees for each day during which such failure continues, or one crore rupees, whichever is less", the words "which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds subject to a maximum of one crore rupees" shall be substituted;

(iii) in clause (c), for the words "of one lakh rupees or five times the amount of brokerage", the words "which shall not be less than one lakh rupees but which may extend to five times the amount of brokerage" shall be substituted.

Amendment
of section
15G.

12. In section 15G of the principal Act, for the words "of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher", the words "which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher" shall be substituted.

Amendment
of section
15H.

13. In section 15H of the principal Act, for the words "of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher", the words "which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher" shall be substituted.

Amendment
of section
15HA.

14. In section 15HA of the principal Act, for the words "of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher", the words "which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher" shall be substituted.

Amendment
of section
15HB.

15. In section 15HB of the principal Act, for the words "liable to a penalty which may extend to one crore rupees", the words "liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees" shall be substituted.

Amendment
of section 15-I.

16. In section 15-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier."

17. After section 15JA of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

Insertion of new section 15JB.

“15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

Settlement of administrative and civil proceedings.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.”

18. In section 15T of the principal Act, sub-section (2) shall be omitted.

Amendment of section 15T.

19. In section 26 of the principal Act, sub-section (2) shall be omitted.

Amendment of section 26.

20. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 26A, 26B, 26C, 26D and 26E.

“26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

Establishment of Special Courts.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

2 of 1974.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Offences triable by Special Courts.

2 of 1974.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Appeal and revision.

2 of 1974.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed

Application of Code to proceedings before Special Court.

to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

2 of 1974.

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this section."

2 of 1974.

Insertion of new section 28A.

21. After section 28 of the principal Act, the following section shall be inserted, namely:—

Recovery of amounts.

‘28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

43 of 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings)

43 of 1961.

Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

Explanation 3.— Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.

22. In section 30 of the principal Act, in sub-section (2),—

Amendment of section 30.

(i) after clause (c), the following clauses shall be inserted, namely:—

“(ca) the utilisation of the amount credited under sub-section (5) of section 11;

(cb) the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;”;

(ii) after clause (d), the following clauses shall be inserted, namely:—

“(da) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.”.

23. After section 34 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 34A.

“34A. Any act or thing done or purporting to have been done under the principal Act, in respect of calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board and in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”.

Validation of certain acts.

CHAPTER III

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

42 of 1956.

24. In section 12A of the Securities Contracts (Regulation) Act, 1956 (hereafter in this Chapter referred to as the principal Act), the following *Explanation* shall be inserted, namely:—

Amendment of section 12A.

Explanation.— For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”.

Amendment
of section
23A.

25. In section 23A of the principal Act, in clauses (a) and (b), for the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less", the words "which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees" shall be substituted.

Amendment
of section
23B.

26. In section 23B of the principal Act, for the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less", the words "which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees" shall be substituted.

Amendment
of section
23C.

27. In section 23C of the principal Act, for the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less", the words "which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees" shall be substituted.

Amendment
of section
23D.

28. In section 23D of the principal Act, for the words "liable to a penalty not exceeding one crore rupees", the words "liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees" shall be substituted.

Amendment
of section
23E.

29. In section 23E of the principal Act, for the words "liable to a penalty not exceeding twenty-five crore rupees", the words "liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees" shall be substituted.

Amendment
of section
23F.

30. In section 23F of the principal Act, for the words "liable to a penalty not exceeding twenty-five crore rupees", the words "liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees" shall be substituted.

Amendment
of section
23G.

31. In section 23G of the principal Act, for the words "liable to a penalty not exceeding twenty-five crore rupees", the words "liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees" shall be substituted.

Amendment
of section
23H.

32. In section 23H of the principal Act, for the words "liable to a penalty which may extend to one crore rupees", the words "liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees" shall be substituted.

Amendment of
section 23-I.

33. In section 23-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23L, whichever is earlier."

Insertion of
new section
23JA.

34. After section 23J of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

Settlement
of adminis-
trative and
civil
proceedings.

"23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

15 of 1992.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

15 of 1992.

(3) For the purposes of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section.”

35. After section 23JA of the principal Act as so inserted, the following section shall be inserted, namely:—

Insertion of
new section
23JB.

‘23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

Recovery of
amounts.

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

43 of 1961.

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

43 of 1961.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

Explanation 3.— Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23L of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.

Amendment
of section
23L.

36. In section 23L of the principal Act, in sub-section (1), after the word, figure and letter "section 4B", the words, brackets, figures and letter "or sub-section (3) of section 23-I" shall be inserted.

Amendment of
section 26.

37. In section 26 of the principal Act, sub-section (2) shall be omitted.

Insertion of new
sections 26A,
26B, 26C, 26D
and 26E.

38. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Establishment
of Special
Courts.

"26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences
triable by
Special
Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

2 of 1974.

Appeal and
Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

2 of 1974.

Application
of Code to
proceedings
before Special
Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

2 of 1974.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an advocate for not less than seven years or should have held a post for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

| | | |
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| 2 of 1974. | <p>26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:</p> <p>Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.”</p> | Transitional provisions. |
| | <p>39. In section 31 of the principal Act, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—</p> | Amendment of section 31: |
| | <p>“(c) the terms determined by the Board for settlement of proceedings under sub-section (2) of section 23JA;</p> | |
| | <p>(d) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.”</p> | |
| | <p>40. After section 31 of the principal Act, the following section shall be inserted, namely:—</p> | Insertion of new section 32. |
| | <p>“32. Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.”</p> | Validation of certain acts. |
| | CHAPTER IV | |
| | AMENDMENTS TO THE DEPOSITORIES ACT, 1996 | |
| 22 of 1996. | <p>41. In section 19 of the Depositories Act, 1996 (hereafter in this Chapter referred to as the principal Act), the following <i>Explanation</i> shall be inserted, namely:—</p> | Amendment of section 19. |
| | <p>“<i>Explanation.</i>— For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.”</p> | |
| | <p>42. In section 19A of the principal Act, in clauses (a), (b) and (c), for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p> | Amendment of section 19A. |
| | <p>43. In section 19B of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p> | Amendment of section 19B. |
| | <p>44. In section 19C of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p> | Amendment of section 19C. |
| | <p>45. In section 19D of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p> | Amendment of section 19D. |
| | <p>46. In section 19E of the principal Act, for the words “of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”, the words “which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees” shall be substituted.</p> | Amendment of section 19E. |

Amendment
of section
19F.

47. In section 19F of the principal Act, for the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less", the words "which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees" shall be substituted.

Amendment
of section
19G.

48. In section 19G of the principal Act, for the words "liable to a penalty which may extend to one crore rupees", the words "liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees" shall be substituted.

Amendment
of
section 19H.

49. In section 19H of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23A, whichever is earlier."

Insertion of
new section
19-IA.

50. After section 19-I of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

Settlement
of Adminis-
trative and
Civil
Proceedings.

"19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19 or section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

15 of 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

15 of 1992.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer under this section."

Insertion of
new section
19-IB.

51. After section 19-IA of the principal Act as so inserted, the following section shall be inserted, namely:—

Recovery of
amounts.

"19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

43 of 1961.

and for this purpose, the provisions of sections 220 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

43 of 1961.

Explanation 2. — Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

43 of 1961.

Explanation 3. — Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.

52. In section 22 of the principal Act, sub-section (2) shall be omitted.

53. After section 22B of the principal Act, the following sections shall be inserted, namely:—

"22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

Amendment
of section 22.

Insertion of
new sections
22C, 22D,
22E, 22F and
22G.

Establishment
of Special
Courts.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences
triable by
Special
Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Act, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

2 of 1974.

Appeal and
revision.

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

2 of 1974.

Application
of Code to
proceedings
before Special
Court.

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

2 of 1974.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

Transitional
provisions.

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

2 of 1974.

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section."

Amendment of
section 23A.

54. In section 23A of the principal Act, sub-section (2) shall be omitted.

Amendment
of section 25.

55. In section 25 of the principal Act, in sub-section (2), after clause (g), the following clauses shall be inserted, namely:—

"(h) the terms determined by the Board for settlement of proceedings under sub-section (2) of section 19-1A;

(i) any other matter which is required to be, or may be, specified by regulations or in respect of which provision to be made by regulations."

Insertion of new
section 30A.

56. After section 30 of the principal Act, the following section shall be inserted, namely:—

Validation of
certain acts.

"30A. Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times."

Validation
and savings.

57. Notwithstanding the fact that the Securities Laws (Amendment) Ordinance, 2014 has ceased to operate, anything done or any action taken or purported to have been done or taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act as if such provisions had been in force at all material times.

Ord. 2 of
2014.

Sd/-

Dr. Sanjay Singh,,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,

Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat
Legislative and Parliamentary Affairs Department
Sachivalaya, Gandhinagar.
Dated the 4th April, 2015.

No. RPB/4-2015/Ord.-04-2015/E:- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 3rd April, 2015 is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 3rd April, 2015/Chaitra 13, 1933 (Saka)

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) ORDINANCE, 2015

No. 4 OF 2015

Promulgated by the President in the Sixty-Sixth Year of the Republic of India.

An Ordinance further to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlements Act, 2013.

WHEREAS the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment Ordinance, 2014 amend the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (the RFCTLARR Act, 2013) was promulgated by the President on the 31st day of December, 2014;

AND WHEREAS the RFCTLARR (Amendment) Bill 2015 was introduced on the 24th February, 2015 in the House of the People to replace the said Ordinance and the said Bill was passed along with Amendments on the 10th March, 2015 in the House of the People;

AND WHEREAS the RFCTLARR (Amendment) Bill 2015 as passed by the House of the People could not be passed by the Council of States and is pending in that House;

AND WHEREAS the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement. 1. (1) This Ordinance may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015.

(2) It shall be deemed to have come into force on the 31st day of December, 2014.

Substitution of certain expression throughout the Act. 2. In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words "private company" wherever they occur, the words "private entity" shall be substituted. 30 of 2013.

Amendment of section 2. 3. In the principal Act, in sub-section (2) of section 2, after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the acquisition of land for the projects listed in sub-section (1) of section 10A and the purposes specified therein shall be exempted from the provisions of the first proviso to this sub-section."

Amendment of section 3. 4. In the principal Act, in section 3,—

(i) in clause (j) in sub-clause (i), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted; 1 of 1956. 18 of 2013.

(ii) after clause (y), the following clause shall be inserted, namely:—

'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisation or other entity under any law for the time being in force;'

Insertion of new Chapter IIIA. 5. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS

Power of appropriate Government to exempt certain projects. 10A (1). The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:—

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;

(b) rural infrastructure including electrification;

(c) affordable housing and housing for the poor people;

(d) industrial corridors set up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one kilometre on both sides of designated railway line or roads for such industrial corridor); and

(e) infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government;

Provided that the appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.

(2) The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government.

6. In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

Amendment
of section 24.

“Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a tribunal for taking possession or such period where possession has been taken but the compensation lying deposited in a court or in any designated account maintained for this purpose shall be excluded.”

7. In the principal Act, in section 31, in sub-section (2), in clause (h), after the words “affected families”, the words “including compulsory employment to at least one member of such affected family of a farm labourer” shall be inserted.

Amendment
of section 31.

8. In the principal Act, in section 46, in sub-section (6), in the *Explanation*, in clause (b), the words “any person other than” shall be omitted.

Amendment
of section 46.

9. In the principal Act, after section 67, the following section shall be inserted, namely:—

Insertion of
new section
67A.

‘67A. The Authority shall, after receiving reference under section 64 and after giving notice of such reference to all parties concerned, hold the hearing in the district where the land acquisition takes place for settlement of the objections raised in the reference.’

Hearing to be
held by
Authority in
district or
districts to
decide
grievances.

10. In the principal Act, for section 87, the following section shall be substituted, namely:—

Substitution
of new
section for
section 87.

“87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, the court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 is followed.”

Offences by
Government
officials.

11. In the principal Act, in section 101, for the words, “a period of five years”, the words “a period specified for setting up of any project or for five years, whichever is later,” shall be substituted.

Amendment
of section
101.

12. In the principal Act, in section 105,—

Amendment
of section
105.

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015.”;

(ii) sub-section (4) shall be omitted.

13. In the principal Act, in section 113, in sub-section (1),—

Amendment
of section
113.

(i) for the words “the provisions of this Part”, the words “the provision of this Act” shall be substituted;

(ii) in the proviso, for the words "a period of two years", the words "a period of five years" shall be substituted.

Repeal and
saving.

14. (1) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014, is hereby repealed.

Ord. 9 of 2014.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

Sd/-
Pranab Mukherjee,
President.

Sd/-
Dr. Sanjay Singh,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
Arvind Agarwal,
Additional Chief Secretary to
Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 10th June, 2015.

No. RPB/353-2015/Act-29-14/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 8th December, 2014, Agrahaayan 17, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 5th December, 2014 is hereby published for general information :-

THE APPRENTICES (AMENDMENT) ACT, 2014

AN

(Act No. 29 of 2014.)

ACT

[8th December, 2014.]

further to amend the Apprentices Act, 1961.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Apprentices (Amendment) Act, 2014.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

52 of 1961. 2. In the Apprentices Act, 1961 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(i) in clause (d), in sub-clause (1), after item (b), the following item shall be inserted, namely:—

"(bb) any establishment which is operating business or trade from different locations situated in four or more States, or";

(ii) for clauses (e), (j) and (k), the following clauses shall respectively be substituted, namely:—

“(e) “designated trade” means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of this Act;

“(j) “graduate or technician apprentice” means an apprentice who holds, or is undergoing training in order that he may hold a degree or diploma in engineering or non-engineering or technology or equivalent qualification granted by any institution recognised by the Government and undergoes apprenticeship training in any designated trade;

“(k) “industry” means any industry or business in which any trade, occupation or subject field in engineering or non-engineering or technology or any vocational course may be specified as a designated trade or optional trade or both;”;

(iii) after clause (l), the following clauses shall be inserted, namely:—

“(l) “optional trade” means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course as may be determined by the employer for the purposes of this Act;

“(ll) “portal-site” means a website of the Central Government for exchange of information under this Act;”;

(iv) in clause (pp), for the words “such subject field in any vocational course as may be prescribed”, the words “designated trade” shall be substituted;

(v) for clauses (q) and (r), the following clauses shall be substituted, namely:—

“(q) “trade apprentice” means an apprentice who undergoes apprenticeship training in any designated trade;

“(r) “worker” means any person working in the premises of the employer, who is employed for wages in any kind of work either directly or through any agency including a contractor and who gets his wages directly or indirectly from the employer but shall not include an apprentice referred to in clause (aa).”;

Amendment
of section 3.

3. In section 3 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

“(a) is not less than fourteen years of age, and for designated trades related to hazardous industries, not less than eighteen years of age; and”.

Amendment
of section 4.

4. In section 4 of the principal Act,—

(i) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) Every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer within thirty days to the Apprenticeship Adviser until a portal-site is developed by the Central Government, and thereafter the details of contract of apprenticeship shall be entered on the portal-site within seven days, for verification and registration.

(4A) In the case of objection in the contract of apprenticeship, the Apprenticeship Adviser shall convey the objection to the employer within fifteen days from the date of its receipt.

(4B) The Apprenticeship Adviser shall register the contract of apprenticeship within thirty days from the date of its receipt.”;

(ii) sub-section (5) shall be omitted.

5. After section 5 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 5A and 5B.

“5A. The qualification, period of apprenticeship training, holding of test, grant of certificate and other conditions relating to the apprentices in optional trade shall be such as may be prescribed.

Regulation of optional trade.

5B. The employer may engage apprentices from other States for the purpose of providing apprenticeship training to the apprentices.”.

Engagement of apprentices from other States.

6. In section 6 of the principal Act,—

Amendment of section 6.

(i) in clause (a), for the words “determined by that Council”, the word “prescribed” shall be substituted;

(ii) for clause (aa), the following clause shall be substituted, namely:—

“(aa) in the case of trade apprentices who, having undergone institutional training in a school or other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority or courses approved under any scheme which the Central Government may, by notification in the Official Gazette specify in this behalf, have passed the trade tests or examinations conducted by that Board or State Council or authority or by any other agency authorised by the Central Government, the period of apprenticeship training shall be such as may be prescribed;”.

7. For section 8 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 8.

“8 (1) The Central Government shall prescribe the number of apprentices to be engaged by the employer for designated trade and optional trade.

Number of apprentices for a designated trade and optional trade.

(2) Several employers may join together either themselves or through an agency, approved by the Apprenticeship Adviser, according to the guidelines issued from time to time by the Central Government in this behalf, for the purpose of providing apprenticeship training to the apprentices under them.”.

8. In section 9 of the principal Act,—

Amendment of section 9.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every employer shall make suitable arrangements in his workplace for imparting a course of practical training to every apprentice engaged by him.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Such of the trade apprentices who have not undergone institutional training in a school or other institution recognised by the National Council or any other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority which the Central Government may, by notification in the Official Gazette, specify in this behalf, shall, before admission in the workplace for practical training, undergo a course of basic training and the course of basic training shall be given to the trade apprentices in any institute having adequate facilities.”;

(iii) sub-sections 4A, 4B, 5 and 6 shall be omitted.

(iv) for sub-section (7) and sub-section (7A), the following sub-sections shall be substituted, namely:—

“(7) In the case of an apprentice other than a graduate or technician apprentice or technician (vocational) apprentice, the syllabus of and the equipment to be utilised for, practical training including basic training in any designated trade shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council.

(7A) In the case of graduate or technician apprentices or technician (vocational) apprentices, the programme of apprenticeship training and the facilities required for such training in any designated trade shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council.”;

(v) in sub-section (8), in clause (c), after the words “employer alone”, the words “except apprentices who holds degree or diploma in non-engineering” shall be inserted.

Amendment of section 15.

9. In section 15 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The weekly and daily hours of work of an apprentice while undergoing practical training in a workplace shall be as determined by the employer subject to the compliance with the training duration, if prescribed.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) An apprentice shall be entitled to such leave and holidays as are observed in the establishment in which he is undergoing training.”.

Amendment of section 19.

10. In section 19 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Until a portal-site is developed by the Central Government, every employer shall furnish such information and return in such form as may be prescribed, to such authorities at such intervals as may be prescribed.

(3) Every employer shall also give trade-wise requirement and engagement of apprentices in respect of apprenticeship training on portal-site developed by the Central Government in this regard.”.

Amendment of section 21.

11. In section 21 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every trade apprentice who has completed the period of training may appear for a test to be conducted by the National Council or any other agency authorised by the Central Government to determine his proficiency in the designated trade in which he has undergone apprenticeship training.”;

(ii) in sub-section (2), after the words “National Council”, the words “or by the other agency authorised by the Central Government” shall be inserted.

Amendment of section 22.

12. In section 22 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in his establishment.”.

Amendment of section 30.

13. In section 30 of the principal Act,—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) If any employer contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions,

he shall be given a month's notice in writing, by an officer duly authorised in this behalf by the appropriate Government, for explaining the reasons for such contravention.

(1A) In case the employer fails to reply the notice within the period specified under sub-section (1), or the authorised officer, after giving him an opportunity of being heard, is not satisfied with the reasons given by the employer, he shall be punishable with fine of five hundred rupees per shortfall of apprenticeship month for first three months and thereafter one thousand rupees per month till such number of seats are filled up.”;

(ii) in sub-section (2),—

(a) after clause (f), the following clauses shall be inserted, namely:—

“(g) engages as an apprentice a person who is not qualified for being so engaged, or

(h) fails to carry out the terms and conditions of a contract of apprenticeship.”;

(b) for the words “imprisonment for a term which may extend to six months or with fine or with both”, the words “fine of one thousand rupees for every occurrence” shall be substituted.

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The provisions of this section shall not apply to any establishment or industry which is under the Board for Industrial and Financial Reconstruction established under the Sick Industrial Companies (Special Provisions) Act, 1985.”.

1 of 1986.

14. In section 37 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section 37.

“(1A) The powers to make rules under this section shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.”.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agarwal,
Additional Chief Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 10th June, 2015.

No. RPB/354-2015/Act-30-14/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE Legislative Department

New Delhi, the 9th December, 2014, Agrahayana 18, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 9th December, 2014 is hereby published for general information :-

THE INDIAN INSTITUTES OF INFORMATION TECHNOLOGY ACT, 2014

AN

(Act No. 30 of 2014.)

ACT

[9th December, 2014.]

to declare certain institutions of information technology to be institutions of national importance, with a view to develop new knowledge in information technology and to provide manpower of global standards for the information technology industry and to provide for certain other matters connected with such institutions or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Institutes of Information Technology Act, 2014.

Short title and commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Declaration
of certain
institutions as
institutions of
national
importance.

2. Whereas the objects of the Institutes mentioned in the Schedule are such as to make them institutions of national importance, it is hereby declared that each such Institute is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) “Board”, in relation to any Institute, means the Board of Governors referred to in sub-section (1) of section 13;

(b) “Chairperson” means the Chairperson of the Board of Governors appointed under sub-section (2) of section 13;

(c) “Council” means the Council established under sub-section (1) of section 40;

(d) “Director” means the Director of the Institute;

(e) “existing Institute” means the institute mentioned in column (3) of the Schedule;

(f) “Institute” means any of the institutions mentioned in column (5) of the Schedule;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “Schedule” means the Schedule to this Act;

(i) “Senate”, in relation to any Institute, means the Senate thereof;

(j) “Statutes” and “Ordinances”, in relation to any Institute, means the Statutes and Ordinances of the Institute made under this Act.

CHAPTER II

THE INSTITUTES

Incorporation
of Institutes.

4. (1) On and from the commencement of this Act, every existing Institute, shall be a body corporate by the same name as mentioned in column (5) of the Schedule.

(2) Every existing Institute referred to in column (5) of the Schedule shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

Effect of
incorporation
of Institutes.

5. On and from the commencement of this Act,—

(a) any reference to a Society in any contract or other instrument shall be deemed as a reference to the corresponding Institute mentioned in column (5) of the Schedule;

(b) all properties, movable and immovable, of or belonging to every existing Institute shall vest in the corresponding Institute mentioned under column (5) of the Schedule;

(c) all rights and debts and other liabilities of every existing Institute mentioned in column (3) of the Schedule shall be transferred to, and be the rights and liabilities of, the corresponding Institute mentioned in column (5) of the Schedule;

(d) every person employed by every existing Institute mentioned in column (3) of the Schedule, immediately before such commencement shall hold his office or service in the corresponding Institute mentioned in column (5) of the Schedule, with the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other

matters as he would have held the same if this Act had not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment, to him by the Institute, of compensation equivalent to three months' remuneration in case of permanent employees and one month's remuneration in the case of other employees:

Provided further that any reference, by whatever form of words, to the Director, Registrar and other officers of an existing Institute mentioned in column (3) of the Schedule, in any law for the time being in force, or in any instrument or other document, shall be construed as a reference to the Director, Registrar and other officers of the corresponding Institute mentioned in column (5) of the Schedule;

(e) every person pursuing, before the commencement of this Act, any academic or research course in every existing Institute mentioned in column (3) of the Schedule, shall be deemed to have migrated and registered with the corresponding Institute mentioned in column (5) of the Schedule, on such commencement at the same level of course in the Institute from which such person migrated;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against an existing Institute, mentioned in column (3) of the Schedule, immediately before the commencement of this Act shall be continued or instituted by or against the corresponding Institute mentioned in column (5) of the Schedule.

6. Each Institute shall have the following objects, namely:—

Objects of
Institute.

(a) to emerge amongst the foremost institutions in information technology and allied fields of knowledge;

(b) to advance new knowledge and innovation in information technology and allied fields to empower the nation to the forefront in the global context;

(c) to develop competent and capable youth imbued with the spirit of innovation and entrepreneurship with the social and environmental orientation to meet the knowledge needs of the country and provide global leadership in information technology and allied fields;

(d) to promote and provide transparency of highest order in matters of admission, appointments to various positions, academic evaluation, administration and finance.

7. (1) Subject to the provisions of this Act, every Institute shall exercise the following powers and perform the following functions, namely:—

Powers and
functions of
Institute.

(a) to provide instruction in such fields of knowledge concerning information technology and allied areas as such Institute may think fit, for the advancement of learning and dissemination of knowledge;

(b) to lead, organise and conduct research and innovation in information technology and allied fields of knowledge in such manner as the Institute may think fit, including in collaboration or in association with any other Institute, educational institution, research organisation or body corporate;

(c) to hold examinations and grant degrees, diplomas and other academic distinctions or titles; and to confer honorary degrees;

(d) to institute teaching, research or other academic positions, required by the Institute with such designations as it may deem fit, and to appoint persons on tenure, term or otherwise to such positions, other than the post of Director in accordance with the policy laid down by the Council;

(e) to appoint persons working in any other Institute or educational institution or involved in research of significance in any industry as adjunct, guest or visiting faculty of the Institute on such terms and for such duration as the Institute may decide;

(f) to create administrative and other posts and to make appointments thereto in accordance with the policy laid down by the Council;

(g) to make provision for dissemination of knowledge emerging from research and for that purpose to enter into such arrangements, including consultancy and advisory services, with other institutions, industry, civil society or other organisations, as the Institute may deem necessary;

(h) to create a website, highlight all information not restricted to those related to students, admission, fee, administrative structure, policies including recruitment rules, faculty and non-faculty posts, annual reports and financial details including statement of account of the Institute;

(i) to determine, specify and receive payment of the charges, as the Institute may deem fit, from person, institution or body corporate for services, including training, consultancy and advisory services, provided by the Institute;

(j) to deal with any property belonging to or vested in, the Institute in such manner as the Institute may deem fit for advancing the objects of the Institute:

Provided that where the land for the Institute has been provided free of cost by a State Government, such land may be disposed of only with the prior approval of such State Government;

(k) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from testators, donors or transferors, as the case may be;

(l) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(m) to establish and maintain such infrastructure as may be necessary, incidental or conducive to the attainment of the objects of the Institute;

(n) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(o) to strive to meet the technological needs of the States and the Union territories by supporting technical educational institutions; and

(p) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

(2) Notwithstanding anything contained in clause (j), an Institute shall not dispose of in any manner any immovable property, without the prior approval of the Visitor.

Institute to be open to all races, creeds and classes.

8. (1) Every Institute shall be open to all persons irrespective of gender, caste, creed, disability, domicile, ethnicity, social or economic background.

(2) No bequest, donation or transfer of any property shall be accepted by any Institute which in the opinion of the Council involves conditions or obligations opposed to the spirit and object of this section.

(3) Admissions to every programme of study in each Institute shall be based on merit assessed through transparent and reasonable criteria disclosed through its prospectus, prior to the commencement of the process of admission by such Institute:

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Provided that every such Institute shall be a Central Educational Institution for the purposes of the Central Educational Institutions (Reservation in Admission) Act, 2006.

9. All teaching at each of the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf.

Teaching at Institute.

10. Each Institute shall be a not-for-profit legal entity and no part of the surplus, if any, in revenue of such Institute, after meeting all expenditure in regard to its operations under this Act, shall be invested for any purpose other than for the growth and development of such Institute or for conducting research therein.

Institute to be a distinct legal entity not-for-profit.

11. (1) The President of India shall be the Visitor of every Institute.

Visitor.

(2) The Visitor may appoint one or more persons to review the work and progress of any Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions within a reasonable time.

CHAPTER III

AUTHORITIES OF CENTRALLY FUNDED INDIAN INSTITUTE OF INFORMATION TECHNOLOGY

12. The following shall be the authorities of an Institute, namely:—

Authorities of Institute.

(a) Board of Governors;

(b) Senate;

(c) Finance Committee;

(d) Building and Works Committee;

(e) Research Council;

(f) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

13. (1) The Board of Governors of each Institute shall be the principal executive body of that Institute.

Board of Governors.

(2) The Board of Governors of each Institute shall consist of the following members, namely:—

(a) a Chairperson, an eminent technologist or industrialist or educationist to be nominated by the Visitor from a panel of three names recommended by the Central Government;

(b) Secretary incharge of Information Technology or Higher Education in the State in which the Institute is located, *ex officio*;

(c) one representative of the Department of Higher Education, Government of India dealing with Indian Institute of Information Technology, *ex officio*;

(d) one representative of the Ministry of Communication and Information Technology, Government of India, *ex officio*;

(e) Director of Indian Institute of Technology to be nominated by the Central Government;

(f) Director of Indian Institute of Management to be nominated by the Central Government;

(g) four persons having special knowledge or practical experience in respect of information technology or engineering or science or allied areas to be nominated by the Council;

(h) two Professors of the Institute nominated by the Senate;

(i) Director of the Institute, *ex officio*;

(j) the Registrar, *ex officio* Secretary.

Term of office of, vacancies among, and allowances payable to, members of Board.

14. (1) Save as otherwise provided in this section, the term of office of member of the Board, other than the *ex officio* member, shall be three years from the date of nomination.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member nominated under clause (h) of sub-section (2) of section 13 shall be two years from the date of nomination.

(4) A member of the Board, other than an *ex officio* member, who fails to attend three consecutive meetings of the Board, shall cease to be a member of the Board.

(5) Notwithstanding anything contained in this section, an outgoing member shall, unless the Council directs, continue in office until another person is nominated as a member in his place.

(6) Members of the Board shall be entitled to such allowances, as may be specified in the Statutes, for attending meetings of the Board or as may be convened by the Institute.

Powers and functions of Board of Governors.

15. (1) Subject to the provisions of this Act, the Board of every Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall have the power to frame, amend, modify or rescind the Statutes and Ordinances governing the affairs of the Institute to achieve the objects specified in section 6.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers, namely:—

(a) to take decisions on questions of policy relating to the administration and working of the Institute;

(b) to establish departments, faculties or schools of studies and initiate programmes or courses of study at the Institute;

(c) to examine and approve the annual budget estimates of such Institute;

(d) to examine and approve the plan for development of such Institute and to identify sources of finance for implementation of the plan;

(e) to create teaching and other academic posts, to determine, by Statutes, the number and emoluments of such posts and to define the duties and conditions of service of teachers and other academic staff;

Provided that the Board shall not take action otherwise than on consideration of the recommendations of the Senate;

(f) to provide, by Statutes, the qualifications, criteria and processes for appointment to teaching and other posts in such Institute;

(g) to fix fees, by the Statutes and other charges to be demanded for pursuit of studies in the Institute;

(h) to make Statutes governing the administration, management and operations of such Institute; and

(i) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or Statutes.

(3) The Board shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(4) The Board shall conduct an annual review of the performance of the Director with specific reference to his leadership in the context of the achievement of the objects of the Institute.

(5) Where in the opinion of the Director or the Chairperson, the situation is so emergent that an immediate decision needs to be taken in the interest of the Institute, the Chairperson, in consultation with the Director may issue such orders as may be necessary, recording the grounds for his opinion:

Provided that such orders shall be submitted for ratification of the Board in the next meeting.

16. (1) The Senate of each Institute shall consist of the following persons, namely:— Senate.

(a) Director of the Institute, *ex officio* Chairperson;

(b) Deputy Director, *ex officio*;

(c) Deans, *ex officio*;

(d) Heads of the Departments of the Institute, *ex officio*;

(e) all Professors other than the Deans or Heads of the Departments;

(f) three persons from amongst educationists of repute or persons from another field related to the activities of the Institute who are not in service of the Institute, nominated by the Board of Governors;

(g) three persons who are not members of teaching staff co-opted by the Senate for their specialised knowledge;

(h) Registrar of the Institute, *ex officio* Secretary.

(2) The term of office of members other than *ex officio* member shall be two years from the date of nomination.

(3) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

17. (1) Subject to the provisions of this Act, the Senate shall be the principal academic body of the Institute and shall have the power to enact, amend, modify Ordinances, governing academic matters and the affairs and well-being of students in the Institute.

Powers and
functions of
Senate.

(2) Without prejudice to the provisions of sub-section (1), the Senate shall have the following powers, namely:—

(a) to specify the criteria and process for admission to courses or programmes of study offered by the Institute;

(b) to recommend to the Board creation of teaching and other academic posts, determination of the number and emoluments of such posts and defining the duties and conditions of service of teachers and other academic posts;

(c) to recommend to the Board about commencement of new programmes or courses of study;

(d) to specify the broad academic content of programmes and courses of study and undertake modifications therein;

(e) to specify the academic calendar and approve grant of degrees, diplomas and other academic distinctions or titles;

(f) to appoint examiners, moderators, tabulators and such other personnel for different examinations;

(g) to recognise diplomas and degrees or Universities and other Institutes and to determine equivalence with the diplomas and degrees of the Institute;

(h) to suggest measures for departmental co-ordination;

(i) to make major recommendations to the Board of Governors on—

(a) measures for improvement of standard of teaching, training and research;

(b) institution of chairs, fellowships, scholarships, studentships, free-ships, medals and prizes and other related matters;

(c) establishment or abolition of departments or centres; and

(d) bye-laws covering the academic functioning of the institute, discipline, residence, admissions, examinations, award of fellowships and studentships, free-ships concessions, attendance and other related matters;

(j) to appoint sub-committees to advise on such specific matters as may be referred to by the Board of Governors or by itself;

(k) to consider the recommendations of the sub-committees and to take such action including making of recommendations to the Board of Governors as may be required;

(l) to take periodical review of the activities of the Departments or Centres and to take appropriate action including making of recommendations to the Board of Governors with a view to maintain and improve the standards of instructions, in the institutions; and

(m) to exercise such other powers and discharge such other functions as may be assigned to it, by Statutes or otherwise, by the Board.

Finance
Committee.

18 (1) The Finance Committee of each Institute shall consist of the following persons, namely:—

(a) the Chairperson, Board of Governors *ex officio* who shall be the Chairperson of the Committee;

(b) one representative of the Government of India, Ministry of Human Resource Development, Department of Higher Education handling the matters relating to Indian Institute of Information Technology, *ex officio*;

(c) one representative of the Government of India, Ministry of Human Resource Development, Department of Higher Education handling the matters relating to finance, *ex officio*;

(d) two persons nominated by the Board;

(e) the Director, *ex officio*;

(f) the Officer incharge of Finance and Accounts of the Institute *ex officio* Secretary.

(2) The members of the Finance Committee other than *ex officio* members shall hold office for a term of three years.

Powers and
functions of
Finance
Committee.
Building and
Works
Committee.

19. The Finance Committee shall examine the accounts, scrutinise proposals for expenditure and financial estimates of the Institute and thereafter submit it to the Board of Governors together with its comments for approval.

20. The Building and Works Committee of each Institute shall consist of the following persons, namely:—

(a) the Director, *ex officio*, who shall be the Chairperson of the Committee;

(b) one person nominated by Indian Institute of Technology located in the State in which the Institute is situated;

(c) one person nominated by the Board from amongst its members;

(d) Dean, Planning and Development;

(e) a civil engineer not below the rank of superintending engineer in the Government or Government Agency nominated by the Board;

(f) an electrical engineer not below the rank of superintending engineer in the Government or Government Agency nominated by the Board;

(g) the officer incharge of Estate of the Institute *ex officio* Secretary.

21. The Building and Works Committee shall discharge the following powers and functions, namely:—

Powers and functions of Building and Works Committee.

(a) it shall be the responsibility of the Committee for construction of all major capital works after securing from the Board the necessary administrative approval and financial sanction;

(b) it shall have the power to give the necessary administrative approval and financial sanction for all construction work and work pertaining to maintenance and repairs, within the grant place at the disposal of the Institute for the purpose;

(c) it shall cause to be prepared estimates of cost of building and other capital work, minor works, repair, maintenance and the like;

(d) it shall be responsible for making technical scrutiny of each work as may be considered necessary by it;

(e) it shall be responsible for enlistment of suitable contractors and acceptance of tenders and shall have the power to give direction for departmental works where necessary.

22. (1) Each Institute shall establish a Research Council comprising of the Director and such other members as may be specified, by Statutes, by the Board.

Research Council.

(2) The Research Council of each Institute shall—

(a) interface with research funding organisations, industry and civil society to identify potential areas for research;

(b) to organise and promote research in such Institute or in collaboration with any institution of higher learning or research laboratories;

(c) assist teachers in obtaining funding from external sources for research projects prepared by them;

(d) provide, out of the funds placed at its disposal by the Board, research resources and grant assistance for research projects proposed to be undertaken by teachers in such Institute;

(e) provide for incubation of technology applications emerging from research and to protect and utilise the intellectual property obtained from research in the Institutes;

(f) make provision for research and advisory services and for that purpose enter into such arrangements with other institutions, industry, civil society or other organisations and enable the fruits of research to be disseminated to industry and society through such arrangements;

(g) exercise such other powers and perform such other duties as may be assigned to it by Statutes.

Meetings.

23. (1) The Chairperson shall ordinarily preside over the meetings of the Board, Finance Committee and at the convocations of the Institute.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Board are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

Director.

24. (1) The Director of a Institute shall be appointed by the Central Government from a panel of names recommended in order of merit by a search-cum-selection committee with prior approval of the Visitor.

(2) The search-cum-selection committee shall consist of the following, namely:—

(a) an eminent person to be nominated by the Minister in charge of Human Resource Development in the Government of India as Chairperson of the Committee;

(b) the Chairperson, Board of Governors of the concerned Indian Institutes of Information Technology – Member, *ex officio*;

(c) Secretary incharge of Higher Education in the Government of India – Member, *ex officio*;

(d) Director of a Indian Institutes of Information Technology to be nominated by Minister incharge of Human Resource Development – Member, *ex officio*;

(e) a person of eminence in the field of information technology to be nominated by Minister incharge of Human Resource Development;

(f) Head of Bureau, Ministry of Human Resource Development dealing with Indian Institutes of Information Technology – non-member Secretary, *ex officio*.

(3) The Director shall be appointed on such terms and conditions of service as may be provided by the Statutes.

(4) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the implementation of the decisions of the Board and Senate and day-to-day administration of the Institute.

(5) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or delegated by the Board or the Senate or the Ordinances.

(6) The Director shall submit annual reports and audited accounts to the Board.

(7) The Director may during his absence from the headquarters, authorise the Deputy Director or one of the Deans or the senior most Professor present, to sanction advances for travelling allowances, contingencies and medical treatment of the staff and sign and countersign bills on his behalf and authorise to the Deputy Director or one of the Dean or the senior most Professor present, by him in writing.

Registrar.

25. (1) The Registrar of every Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Board, Senate and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

26. (1) The Board may, by Statutes, declare such other posts as authorities of the Institute and specify the duties and function of each such authority.

Other
authorities
and officers.

(2) The Board may constitute such authorities as it may deem fit for proper management of affairs of the Institute.

27. (1) Each Institute shall, within five years from the establishment and incorporation of Institute under this Act and thereafter at the expiration of every fifth year, constitute, with the prior approval of the Central Government, a Committee to evaluate and review the performance of the Institute in achievement of its objects in the said period.

Review of
performance
of Institute.

(2) The Committee under sub-section (1) shall consist of members of acknowledged repute in academia or industry, drawn from such fields of knowledge as may have relevance to teaching, learning and research in such Institute.

(3) The Committee shall assess the performance of Institute and make recommendations on—

(a) the extent of fulfilment of the objects of the Institute referred to in section 6, as demonstrated by the state of teaching, learning and research and its contribution to society;

(b) the promotion of transformational research and its impact on industry and society;

(c) the advancement of fundamental research beyond the current frontiers of knowledge;

(d) the establishment of the Institute as amongst the global leaders in the area of information technology;

(e) such other matters as the Board may specify.

(4) The Board shall consider the recommendations referred to in sub-section (3) and take such action on it as it may deem fit:

Provided that the recommendations of the Committee along with an explanatory memorandum on the action taken or proposed to be taken, specifying the reasons thereof, shall be submitted to the Central Government.

CHAPTER IV

ACCOUNTS AND AUDIT

28. (1) For the purposes of enabling the Institutes to discharge their functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to each Institute in every financial year such sums of money in such manner as it may think fit.

Grants by
Central
Government.

(2) The Central Government shall provide to each Institute, grants of such sums of money as are required to meet the expenditure on scholarships or fellowships instituted by it, including scholarships or fellowships for students from socially and educationally backward classes of citizens enrolled in such Institute.

29. (1) Every Institute shall maintain a fund to which shall be credited —

Fund of
Institute.

(a) all monies provided by the Central Government or State Government, as the case may be;

(b) all fees and other charges received by the Institute from students;

(c) all monies received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers;

(d) all monies received by the Institute from utilisation of intellectual property arising from research conducted or provision of advisory or consultancy services by it; and

(e) all monies received by the Institute in any other manner or from any other source.

(2) The fund of every Institute shall be applied towards meeting the expenses of the Institute, including expenses incurred in the exercise of its powers and discharge of its duties under this Act, furtherance of research in the Institute or in collaboration with other educational institutions or industry and for capital investment aimed at the growth and development of the Institute.

Accounts and
audit.

30. (1) Every Institute shall maintain proper accounts and other relevant records and prepare annual statement of accounts including the balance sheet in such form and accounting standard as may be specified by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) Where the statement of income and expenditure and the balance sheet of the Institute do not comply with the accounting standards, the Institute shall disclose in its statement of income and expenditure and balance sheet, the following, namely:—

(a) the deviation from the accounting standards;

(b) the reasons for such deviation; and

(c) the financial effect, if any, arising out due to such deviation.

(3) The accounts of every Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by audit team in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(4) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of any Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular shall have the rights to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(5) The accounts of every Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.

Pension and
provident
fund.

31. (1) Every Institute may constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government Provident Fund.

19 of 1925.

Appointments.

32. All appointments of the staff of every Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes, by—

(a) the Board, if the appointment is made on the academic staff in the post of Assistant Professor or if the appointment is made on the non-academic staff in every cadre the maximum of the pay scale for which exceeds prevalent grade pay scale for Group A Officers;

(b) the Director, in any other case.

33. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

- (a) the conferment of honorary degree;
- (b) the formation of departments of teaching;
- (c) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees and diplomas of the Institute;
- (d) the institution of fellowships, scholarships, exhibitions, medals and prizes;
- (e) the terms of office and the method of appointment of officers of the Institute;
- (f) the qualifications of teachers of the Institute;
- (g) the classification, the method of appointment and the determination of the terms and conditions of service of teachers and other staff of the Institute;
- (h) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;
- (i) the constitution, powers and duties of the authorities of the Institute;
- (j) the establishment and maintenance of halls and hostels;
- (k) the conditions of residence of students of the Institute and the levying of fees for residence in the halls and hostels and of other charges;
- (l) the allowances to be paid to the Chairperson and members of the Board;
- (m) the authentication of the orders and decisions of the Board; and
- (n) the meetings of the Board, the Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business.

34. (1) The first Statutes of each Institute shall be made by the Board with the prior approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

Statutes how to be made.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner provided in this section.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of Statutes shall require the prior approval of the Visitor who may grant assent or withhold assent or remit it to the Board for consideration.

(4) New Statutes or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor:

Provided that the Central Government with the prior approval of the Visitor may make or amend the Statutes for the Institute, if the same is required for uniformity, and a copy of the same shall be laid as soon as may be before each House of the Parliament.

35. Subject to the provisions of this Act and the Statutes, the Ordinances of every Institute may provide for all or any of the following matters, namely:—

Ordinances.

- (a) the admission of the students to the Institute;
- (b) the courses of study to be laid down for all degrees and diplomas of the Institute;
- (c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;
- (d) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;
- (e) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;

- (f) the conduct of examinations;
- (g) the maintenance of discipline among the students of the Institute; and
- (h) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

Ordinances
how to be
made.

36. (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

Tribunal of
Arbitration.

37. (1) (a) Any dispute arising out of a contract between a Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

(b) The decision of the Tribunal shall be final and shall not be questioned in any court.

(c) No suit or proceeding shall lie in any court in respect of any matter, which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(d) The Tribunal of Arbitration shall have power to regulate its own procedure:

Provided that the Tribunal shall have regard to the principles of natural justice while making such procedure.

(e) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

(2) Any student or candidate for an examination whose name has been removed from the rolls of the Institute by the orders or resolution of the Director of the Institute and who has been debarred from the appearing at the examinations of the Institute for more than one year, may within ten days of the date of receipt of such resolution by him, appeal to the Board of Governors who may confirm, modify or reverse the decision of the Director.

(3) Any dispute arising out of any disciplinary action taken by the Institute against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-section (1) shall, as far as may be, apply to a reference made under this sub-section.

(4) Every employee or student of the Institute, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Board of Governors against the decision of any officer or authority of the Institute as the case may be and thereupon the Board of Governors may confirm, modify or reverse the decision appealed against.

Annual report
of Director.

38. (1) There shall be attached to every statement of accounts laid before the Board of each Institute, a report by its Director, with respect to –

- (a) the state of affairs of such Institute;
- (b) the amounts, if any, which it proposes to carry to any surplus reserves in its balance sheet;
- (c) the extent to which understatement or overstatement of any surplus of income over expenditure or any shortfall of expenditure over income has been indicated in the auditor's report and the reasons for such understatement or overstatement;

(d) the productivity of research projects undertaken by the Institute measured in accordance with such norms as may be specified by any statutory regulatory authority;

(e) appointments of the officers and teachers of the Institute;

(f) benchmark and internal standards set by the Institute, including the nature of innovations in teaching, research and application of knowledge.

(2) The Director shall also be bound to give the complete information and explanations in its report aforesaid on every reservation, qualification or adverse remark contained in the auditors' report.

39. (1) The annual report of each Institute shall be prepared under the direction of the Board, which shall include, among other matters, the steps taken by the Institute towards the fulfilment of its objects and an outcome based assessment of the research being undertaken in such Institute, and be submitted to the Board on or before such date as may be specified and the Board shall consider the report in its annual meeting.

Annual
report of
each
Institute.

(2) The annual report on its approval by the Board shall be published on the website of the Institute.

(3) The annual report of each Institute shall be submitted to the Central Government who shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

CHAPTER V

THE COUNCIL

40. (1) In order that there may be better coordination between the Institutes, the Central Government may, by notification in the Official Gazette, establish, with effect from such date as may be specified in the notification, there shall be established for all the Institutes specified in column (5) of the Schedule, a central body to be called the Council.

Council of
Institutes.

(2) The Council shall consist of the following, namely:—

(i) the Minister of the Central Government in charge of technical education, who shall be the Chairperson of the Council, *ex officio*;

(ii) two members of Parliament of India (one member to be nominated by Speaker of Lok Sabha and one member to be nominated by Chairperson of Rajya Sabha), *ex officio*;

(iii) Secretary, Government of India, Ministry of Human Resource Development, Department of Higher Education;

(iv) the Chairpersons of each of the Institutes, *ex officio*;

(v) the Directors of each of the Institutes, *ex officio*;

(vi) the Director-General, Council of Scientific and Industrial Research, *ex officio*;

(vii) three persons to be nominated by the Central Government, one each to represent the Ministry concerned with Finance, Science and Technology and Information Technology;

(viii) three persons to be nominated by Visitor, who shall be persons having special knowledge or practical experience in respect of industry, academia, engineering, alumni and social sciences to be nominated by the Council from a panel comprised of two names recommended by each Institute;

(ix) one representative of University Grants Commission;

(x) one representative of All India Council of Technical Education; and

(xi) Chairperson, Central Board of Secondary Education.

(3) An officer of the Department of Higher Education, Government of India, concerned with technical education shall be nominated by that Government to act as the Secretary of the Council.

(4) The Council may, at its discretion, constitute a Standing Committee of the Indian Institute of Information Technology Council to assist the Council in discharge of its duties and responsibilities.

(5) The expenditure on the Council shall be met by the Central Government.

Term of office and allowances payable to members of Council.

41. (1) Save as otherwise provided in this section, the term of office of a member of the Council, other than an *ex officio* member, shall be for a period of three years from the date of nomination.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member elected under clause (ii) of sub-section (2) of section 40 shall expire as soon as he ceases to be a member of the House which elected him.

(4) Notwithstanding anything contained in this section, an outgoing member shall, unless the Council directs, continue in office until another person is nominated as a member in his place.

(5) Members of the Council shall be entitled to travelling and such other allowances, as may be prescribed, for attending meetings of the Council or its Committees thereof.

Functions and duties of Council.

42. (1) The Council shall work to coordinate the activities of all the Institutes.

(2) Without prejudice to the provisions of sub-section (1), the Council shall perform the following functions, namely:—

(a) to advise on matters relating to the duration of the courses, the degrees and other academic distinctions to be conferred by the Institutes, admission standards and other academic matters;

(b) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and free-ships, levying of fees and other matters of common interest;

(c) to examine the development plans of each Institute and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(d) to examine the annual budget estimates of each Institute and to recommend to the Central Government the allocation of funds for that purpose;

(e) to recommend to the Central Government, the institution of scholarships including research and for the benefit of students belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes of citizens;

(f) to recommend to the Central Government, proposals for establishment of new Institutes of Information Technology;

(g) to advise the Visitor, if so required, in respect of any function to be performed by him under this Act; and

(h) to perform such other functions as may be referred to it by the Central Government;

Provided that nothing in this section shall derogate the powers and functions vested by law in the Board or Senate or other authorities of each Institute.

(3) The Chairperson of the Council shall ordinarily preside at the meetings of the Council and in his or her absence, any other member, chosen by the Members present from amongst themselves at the meeting, shall preside at the meeting.

(4) The Council shall meet once in every year and follow such procedure in its meetings as may be prescribed.

43. (1) The Central Government may, after previous publication, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the travelling and other allowances payable to members of the Council under sub-section (5) of section 41;

(b) the procedure to be followed in the meetings of the Council under sub-section (4) of section 42.

CHAPTER VI

MISCELLANEOUS

44. No act of the Council, or any Institute, Board or Senate or any other body set-up under this Act or the Statutes, shall be invalid merely by reason of—

Acts and proceedings not to be invalidated by vacancies, etc.

(a) any vacancy in or defect in the constitution thereof;

(b) any irregularity in its procedure not affecting the merits of the case;

(c) any defect in the selection, nomination or appointment of a person acting as a member thereof.

45. Every Institute shall furnish to the Central Government such returns or other information with respect to its policies or activities as the Central Government may, for the purpose of reporting to Parliament or for the making of policy, from time to time require.

Returns and information to be provided to Central Government.

46. The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Power of Central Government to issue directions.

22 of 2005.

47. The provisions of the Right to Information Act, 2005 shall apply to each Institute, as defined in clause (h) of section 2 of the Right to Information Act, 2005.

Institute to be public authority under Right to Information Act.

48. (1) Notwithstanding anything contained in this Act—

Transitional provisions.

(a) the Board of Governors of an Institute functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for that Institute under this Act, but on the constitution of a new Board under this Act, the members of the Board holding office before the commencement of this Act shall cease to hold office;

(b) every Senate constituted in relation to every Institute before the commencement of this Act shall be deemed to be the Senate constituted under this Act until a Senate is constituted under this Act for the Institute, but on the constitution of the new Senate under this Act, the members of the Senate holding office before the commencement of this Act shall cease to hold office;

(c) the Statutes, Ordinances, rules, regulations and bye-laws of each existing Institute as in force, immediately before the commencement of this Act, shall continue to apply to the corresponding institute in so far as they are not inconsistent with the provisions of this Act until the first Statutes and the Ordinances are made under this Act;

(d) any student who joined classes of the existing Institute on or after the academic year 2007-2008 or completed the course on or after the academic year 2010-2011 shall for the purpose of clause (c) of sub-section (1) of section 7, be deemed to have pursued a course of study in the existing Institute located at Kancheepuram only if such student has not already been awarded degree or diploma for the same course of study.

(2) The Central Government may, without prejudice to the provisions of sub-section (1), if it considers necessary and expedient to do so, by notification, take such measures which may be necessary for the transfer of the existing Institute mentioned in column (3) of the Schedule to the corresponding Institute mentioned under column (5) of the Schedule.

Power to
remove
difficulties.

49. (1) If any difficulty arises in giving effect to the provisions of this Act the Central Government, may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

*Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before each House of Parliament.

of
rules and
notification.

50. Every rule made and every notification issued by the Central Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

THE SCHEDULE
[See section 4(1)]

| Sl. No. | Name of the State | Name of the existing Institute | Location | Name of the Institute under this Act |
|---------|-------------------|--|--------------|---|
| (1) | (2) | (3) | (4) | (5) |
| 1. | Uttar Pradesh | Indian Institute of Information Technology, Allahabad | Allahabad | Indian Institute of Information Technology, Allahabad. |
| 2. | Madhya Pradesh | Indian Institute of Information Technology, Gwalior | Gwalior | Atal Bihari Vajpayee Indian Institute of Information Technology, and Management, Gwalior. |
| 3. | Madhya Pradesh | Indian Institute of Information Technology, Design and Manufacturing | Jabalpur | Pandit Dwarka Prasad Mishra Indian Institute of Information Technology, Design and Manufacturing, Jabalpur. |
| 4. | Tamil Nadu | Indian Institute of Information Technology, Design and Manufacturing | Kancheepuram | Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram. |

Sd/-

Dr. Sanjay Singh,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agarwal,

Additional Chief Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 10th June, 2015.

No. RPB/355-2015/Act-31-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 10th December, 2014, Agraahayana 19, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 9th December, 2014 is hereby published for general information :-

THE MERCHANT SHIPPING (AMENDMENT)-ACT, 2014

AN

(Act No. 31 of 2014.)

ACT

[10th December, 2014.]

further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 2014.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement

- 44 of 1958. 2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after Part XIA, the following Part shall be inserted, namely:—

insertion of new Part XIB.

PART XIB

CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS

356P. (1) Save as otherwise provided in this Part, this Part shall apply to—

Application.

(a) every Indian ship, wherever it is;

(b) ships not entitled to fly the flag of India, but which operate under the authority of India; and

(c) ships that enter a port, shipyard, or offshore terminal or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 or any other law for the time being in force.

80 of 1976.

(2) This Part shall not apply to any warship, naval auxiliary or other ship owned or operated by or under the authority of India and used, for the time being, only on Government non-commercial service:

Provided that in case of such ships, the Government shall ensure by the adoption of appropriate measures not impairing operations or operational capabilities of such ship that such ships are operated in a prescribed manner consistent with this Part.

Definitions.

356Q. In this Part, unless the context otherwise requires,—

(a) “anti-fouling system” means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms;

(b) “authority” means—

(i) the Government of India under whose authority the ship is operating;

(ii) with respect to a ship entitled to fly a flag of any other country, the Government of that country; and

(iii) with respect to floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to Indian coast over which Government of India exercises sovereign rights for the purposes of exploration and exploitation of its natural resources (including Floating Storage Units and Floating Production Storage and Offloading Units), the Government of India;

(c) “Committee” means the Marine Environment Protection Committee of the Organisation;

(d) “Convention” means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001;

(e) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention as ratified or acceded to or adopted by the Government of India;

(f) “international voyage” means a voyage by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State;

(g) “length” means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention as ratified or acceded to or adopted by the Government of India;

(h) “Organisation” means the International Maritime Organisation;

(i) “port” shall have the same meaning as assigned to it in the Indian Port Act, 1908, the Major Port Trusts Act, 1963, or under any other law for the time being in force and shall include any terminal, either within the port limits or otherwise;

15 of 1908.
38 of 1963.

(j) "ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units and floating production storage and off-loading units.

356R. (1) Every Indian ship and other ships which are not entitled to fly Indian flag but operating under the authority of India, shall comply with the requirements set forth in this Part, including the applicable standards and requirements as prescribed from time to time as well as effective measures to ensure that such ships comply with the requirements, as may be prescribed from time to time.

Control of anti-fouling systems.

(2) All other vessels to which this Part applies shall comply with requirements of the anti-fouling systems as prescribed from time to time.

356S. (1) No Indian ship or other ships entitled to fly Indian flag or operating under its authority, which is of 400 gross tonnage and above shall engage in International Voyage unless there is on-board, in respect of that ship, a certificate issued by the Director-General, to be called as International Anti-Fouling System Certificate, in such form, for such duration and subject to such procedures and conditions as may be prescribed, from time to time.

Issuance of International Anti-Fouling System Certificate.

(2) No Indian ship or other ships entitled to fly Indian flag or operating under its authority excluding fixed or floating platforms, Floating Storage Units and Floating Production Storage and Offloading Units which is of 24 metres or more in length, but less than 400 gross tonnage, shall engage in international voyage unless there is on-board a declaration in such form and subject to such procedures and conditions as may be prescribed, from time to time.

(3) Indian ships entitled to fly Indian flag which are of 400 gross tonnage and above, with appropriate conditions as applicable for each type of ships and not engaged in international voyage and are required to be registered under this Act, shall be issued an Indian Anti-Fouling System Certificate, as may be prescribed from time to time.

356T. (1) The Central Government may, at the request of the Government of a country to which the Convention applies, cause an International Anti-Fouling System Certificate to be issued in accordance with the Convention in respect of any ship of that country to which the Convention applies, if it is satisfied that such certificate can properly be issued, and where a certificate is so issued, it shall contain a statement that it has been so issued on a request, as per the procedure prescribed in this behalf from time to time.

Issue of Anti-Fouling System Certificate for foreign ships in India and Indian ships in foreign countries.

(2) The Central Government may request the Government of a country to which the Convention applies, to issue an International Anti-Fouling System Certificate in accordance with the Convention in respect of a ship to which this Part applies and the certificate so issued in pursuance of such a request shall contain a statement that it has been so issued and shall have the same effect as if it had been issued by the Central Government under this Act.

356U. Taking into account the international rules, standards and requirements, the Central Government shall prescribe the rules and take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system, are collected, handled, treated and disposed of in a safe and environmentally sound manner, by any person in India, to protect human health and the environment.

Controls of waste materials.

356V. (1) Every ship to which this Part applies shall maintain, a record of anti-fouling systems in the prescribed form.

Record of anti-fouling systems.

(2) The manner, in which the record of anti-fouling systems to be maintained shall be prescribed having regard to the provisions of the Convention and this Part.

Inspection
and control of
all ships
above 400
gross tonnage.

356W. (1) Any person authorised by the Director-General as Surveyor in this behalf may inspect, at any reasonable time, any ship to which any of the provisions of this Part applies, for the purposes of—

(a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;

(b) verifying that, where required, there is on-board a valid International Anti-Fouling System Certificate or a declaration on anti-fouling system; or

(c) brief sampling of the ship's anti-fouling system that does not affect the integrity, structure, or operation of the anti-fouling system taking into account the procedures as prescribed from time to time; and

(d) verifying any record required to be maintained on-board.

(2) For the purposes of clause (c) of sub-section (1), the time required to process the results of such sampling shall not be used as a basis for preventing the movement and departure of the ship.

(3) Any person authorised by the Director-General as surveyor in this behalf, may, certify any matter referred to in sub-section (1) in respect of such ship as a copy of the records of the ship to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

Information
regarding
contravention
of the
provisions of
Convention.

356X. (1) If, on receipt of a report from a surveyor or other person authorised to inspect a ship, the Director-General is satisfied that any provision of this Part has been contravened by such ship within the coastal waters, the Director-General or any officer authorised by him in this behalf, may—

(a) detain the ship until the causes of such contravention are removed to the satisfaction of the Director-General or the officer authorised by him; and

(b) levy penalty on such ship as specified in section 436:

Provided that where the Director-General deems it necessary, he may request the Indian Navy or the Coast Guard for preventing the ship from proceeding to sea and the Indian Navy or the Coast Guard, as the case may be, shall take action as requested by the Director-General.

(2) On receipt of information from the Government of any country to which the Convention applies that a ship has contravened any provision of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention and, if satisfied that sufficient evidence is available, conduct investigation of the alleged violations and take appropriate measures in respect thereof.

Power to
make rules.

356Y. (1) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the provisions of this Part.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely:—

(a) appropriate measures for operation of ships under the proviso to sub-section (2) of section 356P;

(b) the standards, requirements and measures to ensure compliance under section 356R;

(c) procedure and conditions and the fees which may be levied for inspection and issuance of international Anti-Fouling Systems Certificate under section 356S;

(d) procedure and the fees which may be levied for issuance of Anti-Fouling Systems Certificate for foreign ships in India and Indian ships in foreign countries under section 356T;

(e) procedure for collection, handling and disposal of wastes under section 356U;

(f) the format of record of Anti-Fouling Systems, the manner in which such record shall be maintained under section 356V;

(g) any other matter which is required to be or may be prescribed.¹.

3. In section 436 of the principal Act, after serial number 115G and the entries relating thereto, the following shall be inserted, namely:—

Amendment
of section
436.

| Sl. No. | Offences | Section of this Act to which offence has reference | Penalties |
|------------|---|--|---|
| 1 | 2 | 3 | 4 |
| "115H. | If the owner of an Indian ship fails to comply with section 356R | 356R | Fine which may extend to fifteen lakh rupees. |
| 115-I | If a master proceeds or attempts to proceed to sea in contravention of section 356S | 356S | Fine which may extend to three lakh rupees. |
| 115J | If the owner of an Indian ship or any person fails to comply with the rules made or measures taken by the Central Government under section 356U | 356U | Fine which may extend to one lakh and fifty thousand rupees. |
| 115K | If the master of a ship fails to maintain records as required by section 356V | 356V | Fine which may extend to one lakh and fifty thousand rupees. |
| 115L | If the master of a ship fails to comply with sub-section (1) of section 356W | 356W(1) | Fine which may extend to one lakh and fifty thousand rupees." |

Sd/-

Dr. Sanjay Singh,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agarwal,

Additional Chief Secretary to Government.



सत्यमेव जयते

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 10th June, 2015.

No. RPB/355-2015/Act-32-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 10th December, 2014, Agrahayana 19, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 9th December,, 2014 is hereby published for general information :-

THE MERCHANT SHIPPING (SECOND AMENDMENT) ACT, 2014

AN

(Act No. 32 of 2014)

ACT

[10th December 2014.]

further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Second Amendment) Act, 2014.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

44 of 1958.

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), in PART VII, under the heading, for the sub-heading, the following sub-heading shall be substituted, namely:—

Substitution of sub-heading in PART VII

"Classification of seamen, seafarer, maritime labour standards and prescription of minimum manning scale."

3. In the principal Act, after section 88, the following sections shall be inserted, namely:—

Insertion of new sections 88A and 88B

'88A. In this Part, unless the context otherwise requires,—

(a) "Declaration of Maritime Labour Compliance" means a declaration issued by the Director-General of Shipping or by any officer, authority or

Definitions.

organisation authorised by him in this behalf, in respect of a ship that it meets with the requirements and standards set out in the provisions of the Maritime Labour Convention;

(b) "Maritime Labour Certificate" means the certificate issued by the Director-General of Shipping or by any officer, authority or organisation authorised by him in this behalf, in accordance with the provisions of the Maritime Labour Convention;

(c) "Maritime Labour Convention" means the International Convention of Maritime Labour Organisation on Maritime Labour Standards signed in Geneva on the 23rd February, 2006;

(d) "seafarer" means any person who is employed or engaged or works in any capacity on board a sea going ship, but does not include—

(i) the employment or engagement or work on board in any capacity of any person in a ship of war; or

(ii) any Government ship used for military or non-commercial purposes.

88B. (1) The provisions relating to maritime labour standards as contained in the Maritime Labour Convention, shall apply to all seafarers and ships engaged in commercial activities, but does not include—

(a) ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where any law for the time being in force relating to ports apply;

(b) ships engaged in fishing activities;

(c) traditionally built ships such as dhows and junks;

(d) ships of war or naval auxiliaries.

(2) Subject to the provisions of sub-section (1), the Central Government may, on the recommendation of the Director-General of Shipping, by order, extend the provisions of the said sub-section to ships not engaged in commercial activities with such exceptions and modifications as it may consider necessary.

Application
of maritime
labour
standards to
seafarers and
ships.

Amendment
of section 91.

4. In section 91 of the principal Act, for the words "boys not under fifteen years of age", the words "young persons not under the age of sixteen years" shall be substituted.

Amendment
of section 92.

5. In section 92 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The apprenticeship of any person to the sea service shall be by contract in writing between the apprentice or if he is a young person, then, on his behalf by his guardian, and the master or owner of the ship requiring the apprentice.";

(b) in sub-section (3),—

(i) in clause (a), in sub-clause (iii), for the words "fifteen years", the words "sixteen years" shall be substituted;

(ii) in clause (b), for the words "a minor" the words "an young person" shall be substituted.

Amendment
of section 95.

6. In section 95 of the principal Act, in the *Explanation*, clause (b) shall be omitted.

Amendment
of section
99A.

7. In section 99A of the principal Act, the *Explanation* thereto shall be omitted.

8. In section 101 of the principal Act, in sub-section (2),—

Amendment
of section
101.

(i) after clause (c), the following clause shall be inserted, namely:—

"(cc) hours of work and rest in a week, as may be prescribed;";

(ii) after clause (f), the following clause shall be inserted, namely:—

"(ff) the entitlement for leave, as may be prescribed;"; and

(iii) in clause (j), for the words "arising out of and", the words "arising out of employment or" shall be substituted;

(iv) after clause (k), the following clause shall be inserted, namely:—

"(kk) the terms of agreement with the crew shall be determined after consultation with such organisations in India as the Central Government may, by order, notify to be the most representative of the employers of seamen and of seamen."

9. For section 109 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 109.

"109. (1) No person under the age of sixteen years shall be engaged or carried to sea to work in any capacity in any ship.

Prohibition
of
engagement
of underage
persons in
certain cases.

(2) (a) No young person shall be engaged in night work.

(b) The period of night work shall be such, as may be prescribed:

Provided that the Director-General of Shipping,—

(i) for giving effective training; or

(ii) for performing a specific nature of duty,

at night, may, by order permit engagement of any young person in night work which shall not be detrimental to the health or well being of such young person."

10. Section 110 of the principal Act, shall be omitted.

Omission of
section 110.

11. For section 113 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 113.

"113. The Central Government may make rules for the purposes of employment of young persons, prescribing—

Power to
make rules
respecting
employment
of young
persons.

(a) the authorities, whose certificates of physical fitness shall be accepted for the purposes of section 111;

(b) the form of register of young persons to be maintained in ships where there is no agreement with the crew."

12. In section 132 of the principal Act, in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

Amendment
of section
132.

"(a) where the amount in dispute is up to five lakh rupees or such higher amount not exceeding ten lakh rupees, as the Central Government may, by notification, specify, at the instance of either party to the dispute;";

13. In section 168 of the principal Act, after sub-section (6), the following sub-sections shall be inserted, namely:—

Amendment
of section
168.

"(7) The master of the ship or any person having charge over the ship shall maintain such standards, in accordance with the provisions of the Maritime Labour

Convention, for the quantity and quality of food and drinking water, and the catering standards applicable to food provided to the seamen on ships, as may be prescribed.

(8) The master of the ship or any person having charge over the ship shall undertake educational activities to promote awareness and implementation of the standards referred to in sub-section (7)."

Amendment
of section
173.

14. In section 173 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every foreign-going ship carrying—

(a) more than the prescribed number of persons (including the crew), shall have on board as part of her complement a medical officer possessing such qualifications; and

(b) less than the prescribed number of persons shall have such medical facilities,

as may be prescribed, in accordance with the provisions of the Maritime Labour Convention."

Insertion of
new section
176A.

15. After section 176 of the principal Act, the following section shall be inserted, namely:—

"176A. (1) All ships of five hundred tons gross or more and engaged in international voyage or operating from a port, or between ports, in another country, shall possess a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance.

(2) Ships not covered under sub-section (1) shall, unless, exempted by the Central Government, possess such certificate in such manner and form, as may be prescribed.

(3) The shipping master, surveyor, seamen's welfare officer, port health officer, Indian consular officer, or any other officer at any port duly authorised in this behalf by the Central Government, may inspect any ship, in such manner as may be prescribed, and the master of the ship or any person having charge over the ship shall make available to such inspecting officer, the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance."

Insertion of
new section
218A.

16. After section 218 of the principal Act, the following section shall be inserted, namely:—

"218A. (1) The Central Government may, having regard to the provisions of the Maritime Labour Convention, and in consultation with such organisations in India as the Central Government may, by order, notify to be the most representative of the employers of seamen and of seamen, make rules for carrying out the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the hours of work and rest in a week under clause (cc) of sub-section (2) of section 101;

(ii) the entitlement for leave under clause (ff) of sub-section (2) of section 101;

(iii) the period of night work under clause (b) of sub-section (2) of section 109;

Power to
make rules
for purposes
of Maritime
Labour
Convention.

(iv) standards for the quantity and quality of food and drinking water, including the catering standards that apply to food provided to the seamen on ships, under sub-section (7) of section 168;

(v) the qualifications of medical officer under clause (a) and the medical facilities under clause (b) of sub-section (1) of section 173;

(vi) the manner and form of certificate to be provided to ships under sub-section (2) of section 176A;

(vii) the manner of conducting inspection in a ship to verify possession of the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance under sub-section (3) of section 176A;

(viii) any other matter which may be or is to be prescribed relating to the Maritime Labour Convention."

17. In section 436 of the principal Act, in sub-section (2), in the Table, against serial number 25,—

Amendment
of section
436.

(a) in column (2), the word and figures ", section 110", occurring at both the places shall be omitted; and

(b) in column (3), the figures "110," shall be omitted.

Sd/-

Dr. Sanjay Singh,,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agrawal,

Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 10th June, 2015.

No. RPB/356-2015/Act-33-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 10th December, 2014, Agrahayana 19, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 10th December,, 2014 is hereby published for general information :-

**THE LABOUR LAWS (EXEMPTION FROM FURNISHING RETURNS AND
MAINTAINING REGISTERS BY CERTAIN ESTABLISHMENTS)
AMENDMENT ACT, 2014**

AN

(Act No. 33 of 2014)

ACT

[10th December 2014.]

*to amend the Labour Laws (Exemption from Furnishing Returns and Maintaining
Registers by certain Establishments) Act, 1988.*

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Act, 2014.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 (hereinafter referred to as the principal Act),

Amendment
of long title.

51 of 1988..

for the long title, the following long title shall be substituted, namely:—

“An Act to provide for the simplification of procedure for furnishing returns and maintaining registers in relation to establishments employing a small number of persons under certain labour laws.”

Amendment
of section 1.

3. In section 1 of the principal Act, in sub-section (1), for the words “Exemption from”, the words “Simplification of Procedure for” shall be substituted.

Amendment
of section 2.

4. In section 2 of the principal Act, in clause (e), for the word “nineteen”, the word “forty” shall be substituted.

Substitution of
new section
for section 4.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

Exemption
from
furnishing or
maintaining of
returns and
registers
required under
certain labour
laws.

“4. (1) Notwithstanding anything contained in a Scheduled Act, on and from the commencement of the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Act, 2014, it shall not be necessary for an employer in relation to any small establishment or very small establishment to which a Scheduled Act applies, to furnish the returns or to maintain the registers required to be furnished or maintained under that Scheduled Act:

Provided that such employer—

(a) furnishes, in lieu of such returns, annual return in Form I; and

(b) maintains, in lieu of such registers,—

(i) registers in Form II and Form III, in the case of small establishments, and

(ii) a register in Form III, in the case of very small establishments,

at the work spot:

Provided further that every such employer shall continue to—

(a) issue wage slips in the Form prescribed in the Minimum Wages (Central) Rules, 1950 made under sections 18 and 30 of the Minimum Wages Act, 1948 and slips relating to measurement of the amount of work done by piece-rated workers required to be issued under the Payment of Wages (Mines) Rules, 1956 made under sections 13A and 26 of the Payment of Wages Act, 1936; and

11 of 1948.

4 of 1936.

(b) file returns relating to accidents under sections 88 and 88A of the Factories Act, 1948 and sections 32A and 32B of the Plantations Labour Act, 1951.

63 of 1948.
69 of 1951.

(2) The annual return in Form I and the registers in Forms II and III and wage slips, wage books and other records, as provided in sub-section (1), may be maintained by an employer either in physical form or on a computer, computer floppy, diskette or other electronic media:

Provided that in case of computer, computer floppy, diskette or other electronic form, a printout of such returns, registers, books and records or a portion thereof is made available to the Inspector on demand.

(3) The employer or the person responsible to furnish the annual return in Form I may furnish it to the Inspector or any other authority prescribed under the Scheduled Acts either in physical form or through electronic mail if the Inspector or the authority has the facility to receive such electronic mail.

(4) Save as provided in sub-section (1), all other provisions of a Scheduled Act, including, in particular, the inspection of the registers by, and furnishing of their

copies to, the authorities under that Act, shall apply to the returns and registers required to be furnished or maintained under this Act as they apply to the returns and registers under that Scheduled Act.

(5) Where an employer in respect of an establishment referred to in sub-section (1), to whom a Scheduled Act applies, furnishes returns or maintains the registers as provided in the proviso to sub-section (1), nothing contained in that Scheduled Act shall render him liable to any penalty for his failure to furnish any return or to maintain any register under that Scheduled Act."

6. For the First Schedule and Second Schedule to the principal Act, the following Schedules shall be substituted, namely:—

Substitution of new Schedules for First Schedule and Second Schedule.

"THE FIRST SCHEDULE

[See section 2(d)]

1. The Payment of Wages Act, 1936 (4 of 1936).
2. The Weekly Holidays Act, 1942 (18 of 1942).
3. The Minimum Wages Act, 1948 (11 of 1948).
4. The Factories Act, 1948 (63 of 1948).
5. The Plantations Labour Act, 1951 (69 of 1951).
6. The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).
7. The Motor Transport Workers Act, 1961 (27 of 1961).
8. The Payment of Bonus Act, 1965 (21 of 1965).
9. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (32 of 1966).
10. The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).
11. The Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976).
12. The Equal Remuneration Act, 1976 (25 of 1976).
13. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979).
14. The Dock Workers (Safety, Health and Welfare) Act, 1986 (54 of 1986).
15. The Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986).
16. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (27 of 1996).

THE SECOND SCHEDULE

[See section 2 (c)]

FORM I

[See section 4 (1)]

ANNUAL RETURN

(To be furnished to the Inspector or the authority specified for this purpose under the respective Scheduled Act before the 30th April of the following year)

(ending 31st March _____)

1. Name of the establishment, its postal address, telephone number, FAX number, e-mail address and location _____

2. Name and postal address of the employer_____
3. Name and address of principal employer, if the employer is a contractor_____
4. Name of the Manager responsible for supervision and control_____
 - (i) Name of business, industry, trade or occupation carried on by the employer—
 - (ii) Date of commencement of the business, industry, trade or occupation_____
5. Employer's number under ESI/EPF/Welfare Fund/PAN No., if any_____
6. Maximum number of workers employed on any day during the year to which this return relates to:

| Category | Highly Skilled | Skilled | Semi-skilled | Un-skilled |
|---|----------------|---------|--------------|------------|
| Male | | | | |
| Female | | | | |
| Children (those who have not completed 18 years of age) | | | | |
| Total | | | | |
7. Average number of workers employed during the year:
8. Total number of mandays worked during the year:
9. Number of workers during the year:
 - (a) Retrenched :
 - (b) Resigned :
 - (c) Terminated :
10. Retrenchment compensation and terminal benefits paid (provide information completely in respect of each worker)_____
11. Mandays lost during the year on account of—
 - (a) Strike :
 - (b) Lockout :
 - (c) Fatal accident :
 - (d) Non-fatal accidents :
12. Reasons for strike or lockout :
13. Total wages paid (wages and overtime to be shown separately):
14. Total amount of deductions from wages made :

15. Number of accidents during the years :

| Reported to Inspector of Factories/Dock Safety | Reported to Employees' State Insurance Corporation | Reported to Workmen's Compensation Commissioner | Others |
|---|---|---|--------|
| Fatal | | | |
| Non-fatal | | | |

16. Compensation paid under the Workmen's Compensation Act, 1923 (8 of 1923) during the year _____

(i) Fatal accidents :

(ii) Non-fatal accidents :

17. Bonus*

(a) Number of employees eligible for bonus :

(b) Percentage of bonus declared and number of employees who were paid bonus:

(c) Amount payable as bonus :

(d) Total amount of bonus actually paid and date of payment :

Signature of the Manager/Employer
with full name in capital letters.

Place:

Date:

ANNEXURE I*

| Name and address of the Contractor | Period of contract From to | Nature of work | Maximum number of workers employed by each contractor | Number of days worked | Number of mandays worked |
|---|-------------------------------------|-------------------|---|--------------------------|--------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 |

ANNEXURE II

(See Item No. 6)

| Serial Number | Name of the employee/worker- | Date of employment | Permanent address |
|---------------|---------------------------------|--------------------|-------------------|
| 1 | 2 | 3 | 4 |

*Delete, if not applicable.

FORM II

[See section 4(1)]

REGISTER OF PERSONS EMPLOYED-CUM-EMPLOYMENT CARD

Name of the establishment, address, telephone number, FAX number and e-mail address _____

Location of work _____

Name and address of principal employer if the employer is a contractor _____

1. Name of workman/employee _____
2. Father's/Husband's name _____
3. Address:
 - (i) Present _____
 - (ii) Permanent _____
4. Name and address of the nominee/next of kin _____
5. Designation/Category _____
6. Date of Birth/Age _____
7. Educational qualifications _____
8. Date of entry _____
9. Worker's ID No./ESI/EPF/L.W.F. No. _____
10. If the employed person is below 14 years, whether a certificate of age is maintained _____
11. Sex: Male or Female _____
12. Nationality _____
13. Date of termination of employment with reason _____
14. Signature/thumb impression of worker/employee _____
15. Signature of the employer/Authorised officer with designation _____

Signature of the contractor/
authorised representative
of the principal employer.

FORM III

[See section 4 (I)]

MUSTER ROLL-CUM-WAGE REGISTER

Name of the establishment and address _____

Location of work _____

Name and address of employer _____

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--|--|--|---|---|----------------------------|--|---|
| Serial number | Name of the worker (ID No. if any) and father's/husband's name | Designation/ category/nature of work performed | Attendance (Dates of the month 1, 2, ... to 31) | Leave due (Earned leave and other kind of admissible leave) | Leave availed (specify) | Wage rate/ pay or piece rate/wages per unit | Other allowances, e.g. (a) Dearness Allowance (b) House Rent Allowance (c) Night Allowances (d) Displacement Allowance (e) Outward Journey Allowance |
| | | | | | | | (a) |
| | | | | | | | (b) |
| | | | | | | | (c) |
| | | | | | | | (d) |
| | | | | | | | (e) |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| Overtime worked number of hours in the month | Amount of overtime wages | Amount of advance and purpose of advance | Total/gross earnings | Deduction e.g. (a) Provident Fund (b) Advance (c) Employees' State Insurance (d) Other amount | Net amount payable (12-13) | Signature/ receipt of wages/ allowances for column number 14 | Remarks |
| | | | | (a) | | | |
| | | | | (b) | | | |
| | | | | (c) | | | |
| | | | | (d) | | | |

Certificate by the principal employer if the employer is contractor.

This is to certify that the contractor has paid wages to workmen employed by him as shown in this register.

Signature of principal employer/
authorised representative of principal employer."

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agrawal,
Additional Chief Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 10th June, 2015.

No. RPB/357-2015/Act-34-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th December, 2014, Agrahayana 27, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 17th December, 2014 is hereby published for general information :-

THE CONSTITUTION (SCHEDULED CASTES) ORDERS (AMENDMENT) ACT, 2014

AN

(Act No. 34 of 2014.)

ACT

(18th December, 2014.)

further to amend the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Sikkim) Scheduled Castes Order, 1978.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Castes) Orders (Amendment) Act, 2014. Short title

C. O. 19.

2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950,—

(a) in PART VIII.—Kerala,—

(i) for entry 46, substitute,—

"46. Palluvan, Pulluvan";

(ii) for entry 61, substitute,—

"61. Thandan (excluding Ezhuvass and Thiyyas who are known as Thandan, in the erstwhile Cochin and Malabar areas) and (Carpenters who are known as Thachan, in the erstwhile Cochin and Travancore State), Thachar (other than Carpenter)";

Amendment of
Constitution
(Scheduled Castes)
order, 1950

(b) in PART IX.—*Madhya Pradesh*, for entry 18, substitute,—

“18. Dahait, Dahayat, Dahat, Dahiya”;

(c) in PART XIII.—*Orissa*,—

(i) for “Orissa”, substitute “Odisha”;

(ii) for entry 2, substitute,—

“2. Amant, Amat, Dandachhatra Majhi, Amata, Amath”;

(iii) for entry 13, substitute,—

“13. Dedia, Bejia, Bajia”;

(iv) for entry 41, substitute,—

“41. Jaggali, Jaggili, Jagli”;

(v) for entry 69, substitute,—

“69. Pan, Pano, Buna Pana, Desua Pana, Buna Pano”;

(d) in PART XVII.—*Tripura*,—

(i) for entry 4, substitute,—

“4. Chamar, Muchi, Chamar-Rohidas, Chamar-Ravidas”;

(ii) for entry 7, substitute,—

“7. Dhoba, Dhobi”;

(iii) for entry 12, substitute,—

“12. Jalia Kaibarta, Jhalo-Malo”.

Amendment of
Constitution
(Sikkim)
Scheduled
Castes Order,
1978.

3. In the Schedule to the Constitution (Sikkim) Scheduled Castes Order, 1978, entry 3 shall be omitted. C.O. 110.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agarwal,
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI
Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 12th June, 2015.

No. RPB/352-2015/Act-28-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 29th November, 2014, Agrahayana 8, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 29th November, 2014 is hereby published for general information :-

THE DELHI SPECIAL POLICE ESTABLISHMENT (AMENDMENT) ACT, 2014

AN

(Act No. 28 of 2014)

ACT

[29th November, 2014.]

further to amend the Delhi Special Police Establishment Act, 1946.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Delhi Special Police Establishment (Amendment) Act, 2014.

Short title

25 of 1946.

2. In the Delhi Special Police Establishment Act, 1946, in section 4A,—

(a) in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

Amendment of
- section 4A.

"(b) the Leader of Opposition recognised as such in the House of the People or where there is no such Leader of Opposition, then, the Leader of the single largest Opposition Party in that House—Member";

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(2) No appointment of a Director shall be invalid merely by reason of any vacancy or absence of a Member in the Committee."

Sd/-
Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
Arvind Agarwal,
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 12th June, 2015.

No. RPB/357-2015/Act-36-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th December, 2014, Aghrahaayan 27, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 17th December,, 2014 is hereby published for general information :-

THE TEXTILE UNDERTAKINGS (NATIONALISATION) LAWS (AMENDMENT AND VALIDATION) ACT, 2014

AN

(Act No. 36 of 2014)

ACT

[18th December, 2014.]

further to amend the Sick Textile Undertakings (Nationalisation) Act, 1974 and the Textile Undertakings (Nationalisation) Act, 1995, in order to continue with the lease-hold rights vested in the National Textile Corporation on completion of the lease-hold tenure.

WHEREAS the National Textile Corporation subserves the interests of the general public and the land continue to be in possession of the said Corporation;

AND WHEREAS various other textile undertakings have been nationalised from time to time and their assets vested absolutely in the Central Government and thereafter transferred to the National Textile Corporation Limited by the Central Government free from all encumbrances;

AND WHEREAS after the nationalisation of the textile undertakings, a large sum of money have been invested with a view to making the said textile undertakings viable;

AND WHEREAS the Central Government has taken initiative to revive certain sick undertakings including the National Textile Corporation under a revival scheme sanctioned by the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985;

AND WHEREAS it is necessary for the proper and effective implementation of the revival scheme and to protect the public investment in the acquired textile undertakings and to explicitly clarify the status of such vesting of the lease-hold rights in the Central Government.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title
and com-
mencement.

1. (1) This Act may be called the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014.

(2) It shall be deemed to have come into force with effect from the 24th October, 2014.

CHAPTER II

AMENDMENTS TO THE SICK TEXTILE UNDERTAKINGS (NATIONALISATION) ACT, 1974

Amendment
of section 3.

2. On and from the date of commencement of the Sick Textile Undertakings (Nationalisation) Act, 1974 (hereafter in this Chapter referred to as the principal Act), in section 3, after sub-section (2), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—

57 of 1974.

“(3) Notwithstanding the transfer and vesting of any sick textile undertaking to the National Textile Corporation by virtue of sub-section (2), the lease-hold rights of the sick textile undertakings shall continue to remain vested in the Central Government on payment of lease-hold rents and shall be discharged, for and on behalf of that Government, by the National Textile Corporation as and when payment of such lease-hold rents or any amount becomes due and payable.

“(4) Subject to sub-section (3), no court shall have jurisdiction to order divestment from the National Textile Corporation of the property vested in it by the Central Government.”.

Amendment
of section 4.

3. On and from the date of commencement of the principal Act, in section 4, after sub-section (7), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—

“(8) Notwithstanding the fact that the textile operations have been discontinued in any sick textile undertaking being revived, shall for all effects and purposes be deemed that the textile operations are being continued and no suit or proceeding shall be instituted or if instituted be maintainable against the National Textile Corporation on the ground that it has discontinued such activity in the sick textile undertaking.

“(9) For the removal of doubts, it is hereby declared that the continued deemed vesting of the lease-hold land in the Central Government shall not affect, impair or in any manner prejudice the rights of the National Textile Corporation to prosecute or defend any proceedings as a subsequent vestee in respect of any such lease-hold rights and no such proceedings shall fail only on account of the non-impleadment of that Government.”.

Insertion of
new section 41.

4. After section 40 of the principal Act, the following section shall be inserted, namely:—

Validation.

“41. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) the provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act, as amended by the said Act, had been in force at all material times;

(b) any lease-hold property divested from the National Textile Corporation to any person under the provisions of this Act, as it stood immediately before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the National Textile Corporation in the same manner as it was vested in the National Textile Corporation before such divesting of that property under the provisions of this Act, as if the provisions of this Act as amended by the aforesaid Act, were in force at all material times;

(c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority, notwithstanding any undertaking filed by the National Textile Corporation in any court or tribunal or authority, directing divestment of such lease-hold property from the National Textile Corporation vested in it under section 3 of this Act, as it stood before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, and such lease-hold property shall continue to vest in the National Textile Corporation under section 3 of this Act, as amended by the aforesaid Act, as if the said section was in force at all material times;

(d) any transfer of any property, vested in the National Textile Corporation, by virtue of any order of attachment, seizure or sale in execution of a decree of a civil court or orders of any tribunal or other authority in respect of lease-hold property vested in the National Textile Corporation which is contrary to the provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the National Textile Corporation under this Act.”.

CHAPTER III

AMENDMENTS TO THE TEXTILE UNDERTAKINGS (NATIONALISATION) ACT, 1995

39 of 1995. 5. On and from the date of commencement of the Textile Undertakings (Nationalisation) Act, 1995 (hereafter in this Chapter referred to as the principal Act), in section 3, after sub-section (2), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—

Amendment
of section 3.

“(3) Notwithstanding the transfer and vesting of any textile undertaking to the National Textile Corporation by virtue of sub-section (2), the lease-hold rights of the textile undertakings shall continue to remain vested in the Central Government on payment of lease-hold rents and shall be discharged, for and on behalf of that Government, by the National Textile Corporation as and when payment of such lease-hold rents or any amount becomes due and payable.

(4) Subject to sub-section (3), no court shall have jurisdiction to order divestment from the National Textile Corporation of the property vested in it by the Central Government.”.

6. On and from the date of commencement of the principal Act, in section 4, after sub-section (7), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—

Amendment
of section 4.

“(8) Notwithstanding the fact that the textile operations have been discontinued in any textile undertaking being revived, shall for all effects and

purposes be deemed that the textile operations are being continued and no suit or proceeding shall be instituted or if instituted be maintainable against the National Textile Corporation on the ground that it has discontinued such activity in the textile undertaking.

(9) For the removal of doubts, it is hereby declared that the continued deemed vesting of the lease-hold land in the Central Government shall not affect, impair or in any manner prejudice the rights of the National Textile Corporation to prosecute or defend any proceedings as a subsequent vestee in respect of any such lease-hold rights and no such proceedings shall fail only on account of the non-impledment of that Government.”

Insertion of
new section
39.

Validation.

7. After section 38 of the principal Act, the following section shall be inserted, namely:—

“39. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) the provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act, as amended by the said Act, had been in force at all material times;

(b) any lease-hold property divested from the National Textile Corporation to any person under the provisions of this Act, as it stood immediately before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the National Textile Corporation in the same manner as it was vested in the National Textile Corporation before such divesting of that property under the provisions of this Act as if the provisions of this Act, as amended by the aforesaid Act, were in force at all material times;

(c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority, notwithstanding any undertaking filed by the National Textile Corporation in any court or tribunal or authority, directing divestment of such lease-hold property from the National Textile Corporation vested in it under section 3 of this Act, as it stood before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, and such lease-hold property shall continue to vest in the National Textile Corporation under section 3 of this Act, as amended by the aforesaid Act, as if the said section was in force at all material times;

(d) any transfer of any property, vested in the National Textile Corporation, by virtue of any order of attachment, seizure or sale in execution of a decree of a civil court or orders of any tribunal or other authority in respect of lease-hold property vested in the National Textile Corporation which is contrary to the provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Act, 2014, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the National Textile Corporation under this Act.”

Repeal and
saving.

8. (1) The Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014 is hereby repealed.

Ord. 6 of
2014.

(2) Notwithstanding the repeal of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, anything done or any action taken under the principal Acts as amended by the said Ordinance shall be deemed to have been done or taken under the principal Acts, as amended by this Act.

Sd/-

Dr. Sanjay Singh,,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agrawal,
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 12th June, 2015.

No. RPB/358-2015/Act-37-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 18th December, 2014, Aghrahaayan 27, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 18th December,, 2014 is hereby published for general information :-

THE SCHOOL OF PLANNING AND ARCHITECTURE ACT, 2014

AN

(Act No. 37 of 2014)

ACT

[18th December 2014.]

to establish and declare Schools of Planning and Architecture as Institutions of national importance in order to promote education and research in architectural studies including planning of human settlements.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (I) This Act may be called the School of Planning and Architecture Act, 2014.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act, and any reference to the commencement in any such provision of this Act shall be construed as a reference to the commencement of that provision.

2. Whereas the objects of the Schools mentioned in the Schedule are such as to make them Institutions of national importance, it is hereby declared that each such School is an Institution of national importance.

Declaration of certain School as Institutions of national importance..

Definitions.

3. In this Act, unless the context otherwise requires,—

- (a) "Board", in relation to any School, means the Board of Governors thereof;
- (b) "Chairperson" means the Chairperson of the Board;
- (c) "Corresponding School", in relation to a School mentioned in column (3) of the Schedule, means the School as specified against the said School in column (5) of the Schedule;
- (d) "Council" means the Council established under sub-section (1) of section 33;
- (e) "Director", in relation to any School, means the Director thereof;
- (f) "existing School" means the School mentioned under column (3) of the Schedule;
- (g) "Member" means a Member of the Board and includes the Chairperson;
- (h) "notification" means a notification published in the Official Gazette and the expression "notify" with its grammatical variations and cognate expressions shall be construed accordingly;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "Registrar", in relation to any School, means the Registrar thereof;
- (k) "Schedule" means the Schedule annexed to this Act;
- (l) "School" means any of the Schools mentioned in column (5) of the Schedule and such other Schools established under this Act;
- (m) "Senate", in relation to any School, means the Senate thereof;
- (n) "Society", means any of the societies registered under the Societies Registration Act, 1860 or under the societies of respective State Governments and mentioned in column (3) of the Schedule;
- (o) "Statutes" and "Ordinances", in relation to any School, means the Statutes and Ordinances of that School made under this Act.

21 of 1860.

CHAPTER II

THE SCHOOLS

Establishment and incorporation of Schools.

4. On and from the date of commencement of this Act, the Schools specified in column (3) of the Schedule, shall be the body corporates having perpetual succession and a common seal with the power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable and to contract and shall by their respective names mentioned in column (5) of the Schedule, sue or be sued.

Objects of School.

5. Each School shall have the following objects, namely:—

- (i) to support the establishment and development of Schools of Planning and Architecture;
- (ii) to provide global leadership in the field of architecture, planning and allied fields.

Effect of incorporation of Schools.

6. On and from the commencement of this Act,—

- (a) any reference to any existing School in any contract or other instrument shall be deemed as a reference to the corresponding School;
- (b) all properties, movable and immovable, of or belonging to every existing School shall vest in the corresponding School mentioned under column (5) of the Schedule;

(c) all the rights, debts and other liabilities of every existing School shall be transferred to, and be the rights and liabilities of, the corresponding School;

(d) every person employed by every existing School shall hold his office or service in the corresponding School with the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held if this Act had not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes;

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the School in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment, to him by the School, of compensation equivalent to three months' remuneration in case of permanent employees and one month's remuneration in the case of other employees;

Provided further that any reference, by whatever form of words, to the Director, Registrar and other officers of an existing School in any law for the time being in force, or in any instrument or other document, shall be construed as a reference to the Director, Registrar and other officers of the corresponding School;

(e) every person pursuing, before the commencement of this Act, any academic or research course in every existing School, shall be deemed to have migrated and registered with the corresponding School on such commencement at the same level of study in the School from which such person migrated;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against an existing School, immediately before the commencement of this Act shall be continued or instituted by or against the corresponding School.

7. (1) Subject to the provisions of this Act, every School shall exercise the powers and perform the duties as specified below, namely:—

Powers and
functions of
Schools.

(a) to organise and undertake research and innovations in architecture, planning, design and allied activities in such manner as the School may think fit, including in collaboration or association with any other School, educational institution, research organisation or body corporate;

(b) to hold examinations and grant degrees, diplomas, certificates and other degrees;

(c) to institute fellowships, Scholarships and confer awards, honorary degrees or other academic distinctions or titles;

(d) to fix, demand and receive fees and other charges;

(e) to establish, maintain and manage halls and hostels for the residence of students;

(f) to supervise and control the residence and regulate the discipline of students of the School and to make arrangements for promoting their health, general welfare and culture and corporate life;

(g) to notify academic and other posts with the prior approval of the Central Government and to make appointment thereto excluding the post of Director;

(h) to appoint persons working in any other School or educational institution or involved in research of significance in any industry as adjunct, guest or visiting teachers of the School on such terms and for such duration as the School may decide;

(i) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(j) to establish and maintain such infrastructure as may be necessary;

(k) to deal with any property belonging to or vested in the School in such manner as the School may deem fit for advancing the objects of the School;

(l) to manage the fund of the School and receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from testators or donors or transferors, as the case may be;

(m) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the School by exchange of teachers, students and scholars and generally in such manner as may be conducive to their common objects on such terms as may be specified from time to time by the Senate;

(n) to undertake consultancy in the areas or disciplines relating to the School for promotion of its common objectives; and

(o) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the School.

(2) Notwithstanding anything contained in sub-section (1), a School shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

Schools to be open to all races, creeds and classes.

3. (1) Every School shall be open to persons of either sex and of whatever race, creed, caste or class, religion, disability, domicile, ethnicity, social or economic background.

(2) No bequest, donation or transfer of any property shall be accepted by any School, which in the opinion of the Council involves conditions or obligations opposed to the spirit and object of this section.

Teaching at Schools.

9. All teaching at each of the Schools shall be conducted by or in the name of the School in accordance with the Statutes and Ordinances made in this behalf.

School to be a distinct legal entity not-for-profit.

10. Each School shall be a not-for-profit legal entity and no part of the surplus, if any, in revenue of such School, after meeting all expenditure in regard to its operations under this Act, shall be invested for any purpose other than for the growth and development of such School or for conducting research therein.

Visitor.

11. (1) The President of India shall be the Visitor of every School.

(2) The Visitor may appoint one or more persons to review the work and progress of any School and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the School shall be bound to comply with such directions within reasonable time.

CHAPTER III

THE AUTHORITIES OF SCHOOLS

Authorities of Schools.

12. The following shall be the authorities of a School, namely:—

(a) a Board of Governors;

(b) a Senate; and

(c) such other authorities as may be declared by the Statutes to be the authorities of the School.

Board of Governors.

13. (1) The Board of each School shall be the principal executive body of that School.

(2) The Board of every School shall consist of the following Members, namely:—

(a) Chairperson to be appointed by the Visitor from among a panel of three names recommended by the Central Government who shall be an eminent Architect or Planner;

(b) Principal Secretary or Secretary, Technical Education, or Higher Education of the respective State Government or Union territory in which the School is situated;

(c) one representative from the Institute of Town Planners, India to be nominated by the President of the Institute of Town Planners, India;

(d) one representative from the Council of Architecture to be nominated by the President of the Council of Architecture;

(e) a representative from the All India Council for Technical Education to be nominated by the Chairman of All India Council of Technical Education;

(f) a representative of the University Grants Commission;

(g) one expert from the professions of architecture or landscape architecture or urban design and one from Urban and Regional Planning nominated by the Council of School of Planning and Architecture;

(h) two representatives from Senate; one each from Department of Planning and Department of Architecture, by rotation, for a period of two years, in order of seniority;

(i) two persons not below the rank of Joint Secretary to the Government of India to be nominated by the Central Government from amongst persons dealing with technical education and finance or their nominee, *ex officio*;

(j) one person not below the rank of Joint Secretary to the Government of India to be nominated by the Government of India, Ministry of Urban Development;

(k) the Director of the School, Member, *ex officio*;

(l) the Registrar of the School shall act as a Secretary to the Board.

14. Save as otherwise provided in this section—

(a) the term of office of the Chairperson or any other Members of the Board shall be five years from the date of his nomination;

(b) the term of office of an *ex officio* Member shall continue so long as he holds the office by virtue of which he is a Member;

(c) the term of office of a Member nominated under clause (h) of section 13 shall be two years from the date of nomination or till he holds the office whichever is earlier;

(d) a casual vacancy of a Member shall be filled up in accordance with the provisions of section 13;

(e) the term of office of a Member nominated to fill a casual vacancy shall continue for the remainder of the term of the Member in whose place he has been nominated; and

(f) the Members of the Board shall be entitled to such allowances, if any, from the School as may be specified in the Statutes, for attending meetings of the Board or as may be convened by the School but no Member other than the Members referred to in clauses (h), (k) and (l) of sub-section (2) of section 13 shall be entitled to any salary by reason of this clause.

15. (1) Subject to the provisions of this Act, the Board of every School shall be responsible for the general superintendence, direction and control of the affairs of the School and shall have all the powers of School not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

Term of office of vacancies among, and allowances payable to Members of Board.

Powers and functions of Board.

(2) Without prejudice to the provisions of sub-section (1), the Board of every School shall have the following powers, namely:—

(a) take decisions on questions of policy relating to the administration and working of the School;

(b) establish departments, faculties or schools of studies and initiate programmes or courses of study at the School;

(c) make Statutes governing the administration, management and operations of such School;

(d) appoint persons to academic and non-academic section of the School;

(e) consider and modify or cancel Ordinances;

(f) consider and pass resolutions on the annual report, the audited accounts and the budget estimates of the School for the next financial year as it thinks fit and submit them to the Council together with a statement of its development plans;

(g) provide, by Statutes, the qualifications, criteria and processes for appointment to teaching and other posts in such School;

(h) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

(3) The Board shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(4) The Board shall conduct an annual review of the performance of the Director with specific reference to his leadership in the context of the achievement of the objects of the School.

(5) The Board shall in exercise of powers and discharge of functions strive, to the extent possible, to provide autonomy in academic matters to the Senate and Departments or Faculties or Schools, as the case may be.

(6) Where in the opinion of the Director or the Chairperson, the situation is so emergent that an immediate decision needs to be taken in the interest of the School, the Chairperson, on the recommendation of the Director may issue such orders as may be necessary, recording the grounds in his opinion:

Provided that such orders shall be submitted for ratification of the Board in the next meeting.

Senate.

16. (1) The Senate of every School shall consist of the following persons, namely:—

(a) the Director of the School, Chairman of the Senate, *ex officio*;

(b) five persons, from amongst the educationists of repute or eminent professionals, who are not in the service of the School, nominated by the Chairperson of the Board of Governors;

(c) a nominee of the Institute of Town Planners, India;

(d) a nominee of the Council of Architecture;

(e) a nominee of All India Council for Technical Education;

(f) Dean in charge of academic, research, student affairs, faculty welfare and planning and development of the School;

(g) all the Heads of the Departments;

(h) all Professors other than the Heads of the Departments;

(i) four Members of the teaching staff, representing Associate Professors and the Assistant Professors of the School, by rotation, for a period of two years:

Provided that an employee of the School shall not be eligible for the membership referred to in clauses (b), (c), (d) and (e).

(2) The term of the Members of the Senate other than *ex officio* Members shall be two years.

17. (1) Subject to the provision of this Act, the Statutes and the Ordinances, the Senate of a School shall be the principal academic body of the School and be responsible for the maintenance of standards of instruction, education and examination in the School and shall have such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

Functions of
Senate.

(2) Without prejudice to the provisions of sub-section (1), the Senate shall have the following powers, namely:—

(a) to specify the criteria and process for admission to courses or programmes of study offered by the School;

(b) to recommend to the Board for creation of teaching and other academic posts, determination of the number and emoluments of such posts and defining the duties and conditions of service of teachers and other academic posts;

(c) to recommend to the Board for the commencement of new programmes and courses of study;

(d) to specify the broad academic content of programmes and courses of study and to undertake modifications therein;

(e) to specify the academic calendar and approve grant of degrees, diplomas and other academic distinctions or titles;

(f) to exercise such other powers and discharge such other functions as may be assigned to it, by Statutes or by the Board.

18. (1) The Chairperson shall ordinarily preside at the meeting of the Board and at the convocations of the School.

Chairperson
of Board.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Board are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

19. (1) The Director of a School shall be appointed by the Central Government with the prior approval of the Visitor, on such terms and conditions of service as may be provided by the Statutes.

Director.

(2) The Director shall be the principal academic and executive officer of the School and shall be responsible for the implementation of the decisions of the Board and Senate and day-to-day administration of the School.

(3) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or delegated by the Board or the Senate or the Ordinances.

(4) The Director shall submit annual reports and audited accounts to the Board.

20. (1) The Registrar of every School shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the School and such other property of the School as the Board shall commit to his charge.

Registrar.

(2) The Registrar shall act as the Secretary of the Board, Senate and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

Other
authorities
and officers.

21. The powers and duties of authorities and officers other than those mentioned above shall be determined by the Statutes.

Review of
performance
of School.

22. (1) Every School shall, within seven years from the establishment and incorporation of School under this Act and thereafter at the expiration of every fifth year, constitute, with the prior approval of the Central Government, a Committee to evaluate and review the performance of the School in achievement of its objects in the said period.

(2) The Committee constituted under sub-section (1) shall consist of members of acknowledged repute in academia or industry, drawn from such fields of knowledge as may have relevance to teaching, learning and research in such School.

(3) The Committee shall assess the performance of School and make recommendations to the Board in accordance with the provisions laid down in Statutes.

Grants by
Central
Government.

23. For the purpose of enabling the Schools to discharge their functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to every School in each financial year such sums of money in such manner as it may think fit.

CHAPTER IV

ACCOUNTS AND AUDIT

Fund of
School.

24. (1) Every School shall maintain a Fund to which shall be credited to—

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the School;

(c) all moneys received by the School by way of grants, gifts, donations, benefactions, bequests or transfers;

(d) all moneys received by the School from utilisation of intellectual property arising from research conducted or provision of advisory or consultancy services by it; and

(e) all moneys received by the School in any other manner or from any other source.

(2) All moneys credited to the Fund of every School shall be deposited in such banks or invested in such manner as the School may, with the approval of the Finance Committee and the governing body, decide.

(3) The fund of any School shall be applied towards meeting the expenses of the School, including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Accounts and
audit.

25. (1) Every School shall maintain proper accounts and other relevant records and prepare annual statement of accounts including the balance sheet in such form and accounting standard as may be specified by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) Where the statement of income and expenditure and the balance sheet of the School do not comply with the accounting standards, the School shall disclose in its statement of income and expenditure and balance sheet, the following, namely:—

(a) the deviation from the accounting standards;

(b) the reasons for such deviation; and

(c) the financial effect, if any, arising out of such deviation.

(3) The accounts of every School shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by audit team in connection with such audit shall be payable by the School to the Comptroller and Auditor-General of India.

(4) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the School shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular shall have the rights to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the School.

(5) The accounts of every School as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.

26. (1) Every School may constitute for the benefit of its employees such provident or pension fund or provide such insurance scheme as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Pension and
provident
fund.

19 of 1925.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

27. All appointments of the staff of every School, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes, by:—

Appointments.

(a) the Board, if the appointment is made on the academic staff in the post of Assistant Professor or if the appointment is made on the non-academic staff in every cadre the maximum of the pay scale for which exceeds prevalent grade pay scale for Group 'A' Officers;

(b) the Director, in any other case.

28. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) the conferment of honorary degrees;

(b) the formation of departments of teaching and centres for research;

(c) the fees to be charged for courses of study in the School and for admission to the examinations of degrees and diplomas of the School;

(d) the institution of fellowship, scholarships, exhibitions, medals and prizes;

(e) the term of office and the method of appointment of officers of the School;

(f) the qualifications of teachers of the School;

(g) the classification, the method of appointment and the determination of the terms and conditions of service of teachers and other staff of the School;

(h) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the School;

(i) the constitution, powers and duties of the authorities of the School;

(j) the establishment and maintenance of halls and hostels;

(k) the conditions of residence of students of the School and the levying of fees for residence in the halls and hostels and of other charges;

(l) the allowances to be paid to the Chairperson and Members of the Board;

(m) the authentication of the orders and decisions of the Board; and

(n) the meetings of the Board, the Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business.

Statutes how made.

29. (1) The first Statutes of each School shall be framed by the Central Government with the approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner provided in this section.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of Statutes shall require the prior approval of the Visitor who may grant assent or withhold assent or remit it to the Board for consideration.

(4) New Statutes or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor:

Provided that the Central Government with the prior approval of the Visitor may frame or amend the Statutes for the School, if the same is required for uniformity and a copy of the same shall be laid as soon as may be before each House of Parliament.

Ordinances.

30. Subject to the provisions of this Act and the Statutes, the Ordinances of every School may provide for all or any of the following matters, namely:—

(a) the admission of the students to the School;

(b) the courses of study to be laid down for all degrees and diplomas of the School;

(c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the School, and shall be eligible for degrees and diplomas;

(d) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(e) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;

(f) the conduct of examinations;

(g) the maintenance of discipline among the students of the School; and

(h) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

Ordinances how made.

31. (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

32. (1) Any dispute arising out of a contract between a School and any of its employees shall, at the request of the employee concerned or at the instance of the School, be referred to a Tribunal of Arbitration consisting of one Member appointed by the School, one Member nominated by the employee, and an umpire appointed by the Visitor.

Tribunal of Arbitration.

(2) The decision of the Tribunal shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter, which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure:

Provided that the Tribunal shall have regard to the principles of natural justice while making such procedure.

(5) Nothing in any other law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER V

THE COUNCIL

33. (1) With effect from such date as the Central Government may, by notification, specify in this behalf, there shall be established for all Schools specified in column (3) of the Schedule, a central body to be called the Council.

Establishment of Council for Schools.

(2) The Council shall consist of the following members, namely:—

(a) the Minister in charge of the Ministry or Department of the Central Government having administrative control of the technical education, *ex officio*, as Chairperson;

(b) two Members of the Parliament of India (one Member to be nominated by the Speaker of Lok Sabha and one member to be nominated by the Chairman of Rajya Sabha), *ex officio*;

(c) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the technical education, *ex officio*, as Vice-Chairperson;

(d) the Chairperson of every Board, *ex officio*;

(e) the Director of every School, *ex officio*;

(f) the Chairman, University Grants Commission, *ex officio*;

(g) the President, Council of Architecture, New Delhi, *ex officio*;

(h) the President, Institute of Town Planners, India, *ex officio*;

(i) the Chairman, Indian Institute of Architects, *ex officio*;

(j) the President, Institution of Surveyors of India, *ex officio*;

(k) two Secretaries to the Government of India to represent the Ministries or Departments of the Central Government dealing with Urban Development and Defence, *ex officio*;

(l) the Chairman, All India Council for Technical Education, *ex officio*;

(m) three persons to be nominated by the Visitor, at least one of whom shall be a woman, having special knowledge or practical experience in respect of Architecture or Landscape Architecture or Urban Design and one from Urban and Regional Planning, *ex officio*;

(n) two Secretaries to the State Government, from amongst the Ministries or Departments of that Government dealing with technical education where the Schools are located, *ex officio*;

(o) Financial Advisor, dealing with the Ministry of Human Resource Development, Department of the Central Government, *ex officio*; and

(p) one officer not below the rank of Joint Secretary to the Government of India in the Ministry or Department of the Central Government having administrative control of the Technical Education, *ex officio*, as Member Secretary.

(3) The Council shall have a Secretariat with officials to be appointed by the Statutes.

(4) The Council, may, constitute a Standing Committee of the School of Planning and Architecture Council to assist the Council in discharge of its duties and responsibilities.

Term of office of vacancies among, and allowances payable to Members of Council.

34. (1) Save as otherwise provided in this section, the term of office of a Member of the Council, other than an *ex officio* Member, shall be three years from the date of notification.

(2) The terms of office of an *ex officio* Member shall continue so long as he holds office by virtue of which he is such a Member.

(3) The term of office of a member nominated under clause (b) of sub-section (2) of section 33 shall expire as soon as he ceases to be Member of the House, which elected him.

(4) The term of office of a Member of the Council nominated or elected to fill a casual vacancy shall continue for the remainder of the term of the Member in whose place he has been appointed.

(5) Notwithstanding anything contained in this section an outgoing Member of the Council shall, unless the Central Government otherwise directs, continue in office until another person is appointed as a Member in his place.

(6) The members of the Council shall be entitled to such travelling and other allowances, as may be prescribed, for attending meetings of the Council or the Committees thereof.

Functions of Council.

35. (1) It shall be the general duty of the Council to co-ordinate the activities of all the Schools.

(2) Without prejudice to the provisions of sub-section (1), the Council shall perform the following functions, namely:—

(a) to advise on policy matters relating to the duration of the courses, the degrees and other academic distinctions to be conferred by the Schools, admission standards and other academic matters;

(b) to recommend to the Central Government, proposals for establishment of new Schools of Planning and Architecture;

(c) to deliberate on such matters of common interest to Schools as may be referred to it by any School;

(d) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and freeships, levying of fees and other matters of common interest;

(e) to examine the development plans of each School and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(f) to advise the Visitor, if so required, in respect of any function to be performed by him under this Act; and

(g) to perform such other functions as may be referred to it by the Central Government.

Provided that nothing in this section shall derogate the powers and functions vested in the Board or Senate or other authorities of a School.

36. (1) The Chairperson of the Council shall ordinarily preside at the meetings of the Council:

Chairperson
of Council.

Provided that in his absence, the Vice-Chairperson of the Council shall preside at the meetings of the Council.

(2) It shall be the duty of the Chairperson of the Council to ensure that the decisions taken by the Council are implemented.

(3) The Chairperson shall exercise such other powers and perform such other duties as are assigned to him by this Act.

(4) The Council shall meet once in every year and follow such procedure in its meetings as may be prescribed.

37. (1) The Central Government may, after previous publication, by notification, make rules to carry out the purposes of this Act.

Power to
make rules in
respect of
matters in
this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner and the conditions for providing provident fund and pension fund or insurance scheme under sub-section (1) of section 26;

(b) the travelling and other allowances for the Members for attending the meetings of the Council or the Committees thereof under sub-section (6) of section 34;

(c) the procedure to be followed in the meetings of the Council under sub-section (4) of section 36.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

CHAPTER VI

MISCELLANEOUS

38. No act of the Council, or any School or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of—

Acts and
proceedings
not to be
invalidated by
vacancies,
etc.

(a) any vacancy or defect in the constitution thereof; or

(b) any defect in the election, nomination or appointment of a person acting as a Member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

39. Each School shall furnish to the Central Government such returns or other information with respect to its policies or activities as the Central Government may, for the purpose of reporting to Parliament or for the making of policy, from time to time require.

Returns and
information
to be
provided to
Central
Government.

40. (1) If any difficulty arises in giving effect to the provisions of this Act the Central Government, may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before each House of Parliament.

School to be public authority under Right to Information Act, 2005.

Transitional provisions.

41. The provisions of the Right to Information Act, 2005 shall apply to each School, as if it were a public authority defined in clause (h) of section 2 of the Right to Information Act, 2005.

22 of 2005.

42. Notwithstanding anything contained in this Act—

(a) the Board of Governors of every School functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for that School under this Act, but on the constitution of a new Board under this Act, the Members of the Board holding office before the constitution shall cease to hold office;

(b) every Academic Council constituted in relation to every School before the commencement of this Act shall be deemed to be the Senate constituted under this Act until a Senate is constituted under this Act for that School but on the constitution of the new Senate under this Act, the Members of the Academic Council holding office before such constitution shall cease to hold office;

(c) the Board of Governors, Finance Committee, Academic Council, Executive Council, Building and Works Committee and such other Committees of every School functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for the School under this Act, but on the constitution of a new Board under this Act, the Members of the Board of Governors, Finance Committee, Academic Council, Building and Works Committee and such other Committees holding office before such constitution shall cease to hold office;

(d) any student who joined classes of the existing School on or after the academic year 2008-2009 or completed the course on or after the academic year 2011-2012 shall for the purpose of clause (c) of sub-section (1) of section 7, be deemed to have pursued a course of study in the existing Schools located at Bhopal and Vijayawada only if such student has not already been awarded degree or diploma for the same course of study.

THE SCHEDULE

[See section 3(k) and section 4]

| (1) | (2) | (3) | (4) | (5) |
|---------|-------------------|---|------------|--|
| Sl. No. | Name of the State | Name of the existing School | Location | Name of School incorporated under this Act |
| 1. | Delhi | School of Planning and Architecture, being a society registered under the Societies Registration Act, 1860 (21 of 1860) | New Delhi | School of Planning and Architecture, New Delhi. |
| 2. | Madhya Pradesh | School of Planning and Architecture, being a society registered under the Societies Registration Act, 1860 (21 of 1860) | Bhopal | School of Planning and Architecture, Bhopal. |
| 3. | Andhra Pradesh | School of Planning and Architecture, being a society registered under the Societies Registration Act, 1860 (21 of 1860) | Vijayawada | School of Planning and Architecture, Vijayawada. |

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agarwal,
Additional Chief Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 12th June, 2015.

No. RPB/361-2015/Act-40-14/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 31st December, 2014, Paush 10, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 31st December,, 2014 is hereby published for general information :-

THE NATIONAL JUDICIAL APPOINTMENTS COMMISSION ACT, 2014

AN

(Act No. 40 of 2014)

ACT

[31st December 2014.]

to regulate the procedure to be followed by the National Judicial Appointments Commission for recommending persons for appointment as the Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and for their transfers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the National/Judicial Appointments Commission Act, 2014.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

- (a) "Chairperson" means the Chairperson of the Commission;
- (b) "Commission" means the National Judicial Appointments Commission referred to in article 124A of the Constitution;
- (c) "High Court" means the High Court in respect of which recommendation for appointment of a Judge is proposed to be made by the Commission;
- (d) "Member" means a Member of the Commission and includes its Chairperson;
- (e) "prescribed" means prescribed by the rules made under this Act;
- (f) "regulations" means the regulations made by the Commission under this Act.

Headquarters of Commission.

3. The Headquarters of the Commission shall be at Delhi.

Reference to Commission for filling up of vacancies.

4. (1) The Central Government shall, within a period of thirty days from the date of coming into force of this Act, intimate the vacancies existing in the posts of Judges in the Supreme Court and in a High Court to the Commission for making its recommendations to fill up such vacancies.

(2) The Central Government shall, six months prior to the date of occurrence of any vacancy by reason of completion of the term of a Judge of the Supreme Court or of a High Court, make a reference to the Commission for making its recommendation to fill up such vacancy.

(3) The Central Government shall, within a period of thirty days from the date of occurrence of any vacancy by reason of death or resignation of a Judge of the Supreme Court or of a High Court, make a reference to the Commission for making its recommendations to fill up such vacancy.

Procedure for selection of Judge of Supreme Court.

5. (1) The Commission shall recommend for appointment the senior-most Judge of the Supreme Court as the Chief Justice of India if he is considered fit to hold the office:

Provided that a member of the Commission whose name is being considered for recommendation shall not participate in the meeting.

(2) The Commission shall, on the basis of ability, merit and any other criteria of suitability as may be specified by regulations, recommend the name for appointment as a Judge of the Supreme Court from amongst persons who are eligible to be appointed as such under clause (3) of article 124 of the Constitution:

Provided that while making recommendation for appointment of a High Court Judge, apart from seniority, the ability and merit of such Judge shall be considered:

Provided further that the Commission shall not recommend a person for appointment if any two members of the Commission do not agree for such recommendation.

(3) The Commission may, by regulations, specify such other procedure and conditions for selection and appointment of a Judge of the Supreme Court as it may consider necessary.

Procedure for selection of Judge of High Court.

6. (1) The Commission shall recommend for appointment a Judge of a High Court to be the Chief Justice of a High Court on the basis of *inter se* seniority of High Court Judges and ability, merit and any other criteria of suitability as may be specified by regulations.

(2) The Commission shall seek nomination from the Chief Justice of the concerned High Court for the purpose of recommending for appointment a person to be a Judge of that High Court.

(3) The Commission shall also on the basis of ability, merit and any other criteria of suitability as may be specified by regulations, nominate name for appointment as a Judge of a High Court from amongst persons who are eligible to be appointed as such under clause (2) of article 217 of the Constitution and forward such names to the Chief Justice of the concerned High Court for its views.

(4) Before making any nomination under sub-section (2) or giving its views under sub-section (3), the Chief Justice of the concerned High Court shall consult two senior-most Judges of that High Court and such other Judges and eminent advocates of that High Court as may be specified by regulations.

(5) After receiving views and nomination under sub-sections (2) and (3), the Commission may recommend for appointment the person who is found suitable on the basis of ability, merit and any other criteria of suitability as may be specified by regulations.

(6) The Commission shall not recommend a person for appointment under this section if any two members of the Commission do not agree for such recommendation.

(7) The Commission shall elicit in writing the views of the Governor and the Chief Minister of the State concerned before making such recommendation in such manner as may be specified by regulations.

(8) The Commission may, by regulations, specify such other procedure and conditions for selection and appointment of a Chief Justice of a High Court and a Judge of a High Court as it may consider necessary.

7. The President shall, on the recommendations made by the Commission, appoint the Chief Justice of India or a Judge of the Supreme Court or, as the case may be, the Chief Justice of a High Court or the Judge of a High Court:

Power of President to require reconsideration.

Provided that the President may, if considers necessary, require the Commission to reconsider, either generally or otherwise, the recommendation made by it:

Provided further that if the Commission makes a recommendation after reconsideration in accordance with the provisions contained in sections 5 or 6, the President shall make the appointment accordingly.

8. (1) The Central Government may, in consultation with the Commission, appoint such number of officers and other employees for the discharge of functions of the Commission under this Act.

Officers and employees of Commission.

(2) The terms and other conditions of service of officers and other employees of the Commission appointed under sub-section (1) shall be such as may be prescribed.

(3) The Convenor of the Commission shall be the Secretary to the Government of India in the Department of Justice.

9. The Commission shall recommend for transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court, and for this purpose, specify, by regulations, the procedure for such transfer.

Procedure for transfer of Judges.

10. (1) The Commission shall have the power to specify, by regulations, the procedure for the discharge of its functions.

Procedure to be followed by Commission in discharge of its functions.

(2) The Commission shall meet at such time and place as the Chairperson may direct and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meeting), as it may specify by regulations.

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees and allowances payable to the eminent persons nominated under sub-clause (d) of clause (1) of article 124A of the Constitution;

(b) the terms and other conditions of service of officers and other employees of the Commission under sub-section (2) of section 8;

(c) any other matter which is to be, or may be, prescribed, in respect of which provision is to be made by the rules.

Power to make regulations.

12. (1) The Commission may, by notification in the Official Gazette, make regulations consistent with this Act, and the rules made thereunder, to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the criteria of suitability with respect to appointment of a Judge of the Supreme Court under sub-section (2) of section 5;

(b) other procedure and conditions for selection and appointment of a Judge of the Supreme Court under sub-section (3) of section 5;

(c) the criteria of suitability with respect to appointment of a Judge of the High Court under sub-section (3) of section 6;

(d) other Judges and eminent advocates who may be consulted by the Chief Justice under sub-section (4) of section 6;

(e) the manner of eliciting views of the Governor and the Chief Minister under sub-section (7) of section 6;

(f) other procedure and conditions for selection and appointment of a Judge of the High Court under sub-section (8) of section 6;

(g) the procedure for transfer of Chief Justices and other Judges from one High Court to any other High Court under section 9;

(h) the procedure to be followed by the Commission in the discharge of its functions under sub-section (1) of section 10;

(i) the rules of procedure in regard to the transaction of business at the meetings of Commission, including the quorum at its meeting, under sub-section (2) of section 10;

(j) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

Rules and regulations to be laid before Parliament.

13. Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties

14. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, after consultation with the Commission, by an order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agarwal,
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 12th June, 2015.

No. RPB/362-2015/Const-99-14/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 31st December, 2014, Paush 10, 1936 (Sake)

The following Act of Parliament has received the assent of the President on the 31st December, 2014 is hereby published for general information :-

THE CONSTITUTION (NINETY-NINTH AMENDMENT) ACT, 2014

AN

ACT

[31st December, 2014.]

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Ninety-ninth Amendment) Act, 2014.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. In article 124 of the Constitution, in clause (2),—

(a) for the words "after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose", the words, figures and letter "on the recommendation of the National Judicial Appointments Commission referred to in article 124A" shall be substituted;

Amendment of article 124.

(b) the first proviso shall be omitted;

(c) in the second proviso, for the words "Provided further that", the words "Provided that" shall be substituted.

Insertion of
new articles
124A, 124B
and 124C.

3. After article 124 of the Constitution, the following articles shall be inserted, namely:—

National
Judicial
Appointments
Commission.

"124A. (1) There shall be a Commission to be known as the National Judicial Appointments Commission consisting of the following, namely:—

(a) the Chief Justice of India, Chairperson, *ex officio*;

(b) two other senior Judges of the Supreme Court next to the Chief Justice of India — Members, *ex officio*;

(c) the Union Minister in charge of Law and Justice—Member, *ex officio*;

(d) two eminent persons to be nominated by the committee consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People — Members:

Provided that one of the eminent person shall be nominated from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities or Women:

Provided further that an eminent person shall be nominated for a period of three years and shall not be eligible for renomination.

(2) No act or proceedings of the National Judicial Appointments Commission shall be questioned or be invalidated merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

Functions of
Commission.

124B. It shall be the duty of the National Judicial Appointments Commission to—

(a) recommend persons for appointment as Chief Justice of India, Judges of the Supreme Court, Chief Justices of High Courts and other Judges of High Courts;

(b) recommend transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court; and

(c) ensure that the person recommended is of ability and integrity.

Power of
Parliament to
make law.

124C. Parliament may, by law, regulate the procedure for the appointment of Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and empower the Commission to lay down by regulations the procedure for the discharge of its functions, the manner of selection of persons for appointment and such other matters as may be considered necessary by it."

Amendment
of article 127.

4. In article 127 of the Constitution, in clause (1), for the words "the Chief Justice of India may, with the previous consent of the President", the words "the National Judicial Appointments Commission on a reference made to it by the Chief Justice of India, may with the previous consent of the President" shall be substituted.

Amendment
of article 128.

5. In article 128 of the Constitution, for the words "the Chief Justice of India", the words "the National Judicial Appointments Commission" shall be substituted.

6. In article 217 of the Constitution, in clause (1), for the portion beginning with the words "after consultation", and ending with the words "the High Court", the words, figures and letter "on the recommendation of the National Judicial Appointments Commission referred to in article 124A" shall be substituted.

Amendment
of article 217.

7. In article 222 of the Constitution, in clause (1), for the words "after consultation with the Chief Justice of India", the words, figures and letter "on the recommendation of the National Judicial Appointments Commission referred to in article 124A" shall be substituted.

Amendment
of article 222.

8. In article 224 of the Constitution,—

Amendment
of article 224.

(a) in clause (1), for the words "the President may appoint", the words "the President may, in consultation with the National Judicial Appointments Commission, appoint" shall be substituted;

(b) in clause (2), for the words "the President may appoint", the words "the President may, in consultation with the National Judicial Appointments Commission, appoint" shall be substituted.

9. In article 224A of the Constitution, for the words "the Chief Justice of a High Court for any State may at any time, with the previous consent of the President", the words "the National Judicial Appointments Commission on a reference made to it by the Chief Justice of a High Court for any State, may with the previous consent of the President" shall be substituted.

Amendment
of article
224A.

10. In article 231 of the Constitution, in clause (2), sub-clause (a) shall be omitted.

Amendment
of article 231.

Sd/-

Dr. Sanjay Singh,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

Arvind Agarwal,

Additional Chief Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat
Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar.

Dated the 17th June, 2015.

No. RPB/366-2015/Ord.-05-2015/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 30th May, 2015 is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 30th May, 2015/Jyaistha 9, 1937 (Saka)

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) SECOND ORDINANCE, 2015

No. 5 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

An Ordinance further to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

WHEREAS the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013) was promulgated by the President on the 31st day of December, 2014;

AND WHEREAS, the RFCTLARR (Amendment) Bill, 2015 was introduced on the 24th February, 2015 in the House of the People to replace the said Ordinance and the said Bill was passed alongwith amendments on the 10th March, 2015 in the House of the People, but the same could not be passed by the Council of States and is pending in that House;

AND WHEREAS, the RFCTLARR (Amendment) Ordinance, 2015 incorporating the amendments made by the House of the People was promulgated by the President on 3rd April, 2015;

AND WHEREAS, the RFCTLARR (Amendment) Second Bill, 2015 was introduced in the House of the People on 11th May, 2015;

AND WHEREAS, the House of the People referred the RFCTLARR (Amendment) Second Bill, 2015 to the Joint Committee of the Houses;

AND WHEREAS, it is considered necessary to give continued effect to the provisions of the RFCTLARR (Amendment) Ordinance, 2015;

AND WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title
and com-
mencement.

1. (1) This Ordinance may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Ordinance, 2015.

(2) It shall be deemed to have come into force on the 31st day of December, 2014.

Substitution
of certain
expression
throughout
the Act.

2. In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words "private company" wherever they occur, the words "private entity" shall be substituted.

30 of 2013.

Amendment
of
section 2.

3. In the principal Act, in sub-section (2) of section 2, after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the acquisition of land for the projects listed in sub-section (1) of section 10A and the purposes specified therein shall be exempted from the provisions of the first proviso to this sub-section."

Amendment
of section 3.

4. In the principal Act, in section 3,—

(i) in clause (j), in sub-clause (i), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted;

1 of 1956,
18 of 2013.

(ii) after clause (y), the following clause shall be inserted, namely:—

'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisations or other entity under any law for the time being in force;'

Insertion of
new Chapter
IIIA.

5. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS

Power of
appropriate
Government
to exempt
certain
projects.

10A. (1) The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:—

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;

(b) rural infrastructure including electrification;

(c) affordable housing and housing for the poor people;

(d) industrial corridors set up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one kilometer on both sides of designated railway line or roads for such industrial corridor); and

(e) Infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government;

Provided that the appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.

(2) The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government.

6. In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

Amendment
of section 24

"Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a court or in any designated account maintained for this purpose, shall be excluded."

7. In the principal Act, in section 31, in sub-section (2), in clause (h), after the words "affected families", the words "including compulsory employment to at least one member of such affected family of a farm labourer" shall be inserted.

Amendment
of section 31

8. In the principal Act, in section 46, in sub-section (6), in the Explanation, in clause (b), the words "any person other than" shall be omitted.

Amendment
of section 46

9. In the principal Act, after section 67, the following section shall be inserted, namely:—

Insertion of
new section
67A.

"67A. The Authority shall, after receiving reference under section 64 and after giving notice of such reference to all parties concerned, hold the hearing in the district where the land acquisition takes place for settlement of the objections raised in the reference."

Hearing to be
held by
Authority in
district or
districts to
decide
grievances.

10. In the principal Act, for section 87, the following section shall be substituted, namely:—

Substitution
of new
section for
section 87.

"87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, the court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 is followed."

Offences by
Government
officials.

2 of 1974.

11. In the principal Act, in section 101, for the words "a period of five years", the words, "a period specified for setting up of any project or for five years, whichever is later," shall be substituted.

Amendment
of section
101.

12. In the principal Act, in section 105,—

Amendment
of section
105.

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and

resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule, with effect from 1st January, 2015.";

(ii) sub-section (4) shall be omitted.

Amendment
of section
109.

13. In the principal Act, in section 109, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

" (dd) the manner of undertaking a survey of waste land including arid land and maintenance of the record containing the details of such land under sub-section (2) of section 10A;".

Amendment
of section
113.

14. In the principal Act, in section 113, in sub-section (1),—

(i) for the words "the provisions of this Part", the words "the provisions of this Act" shall be substituted;

(ii) in the proviso, for the words "a period of two years", the words "a period of five years" shall be substituted.

Repeal and
saving.

15. (1) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015, is hereby repealed.

Ord. 4 of 2015.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

4 of 2015.

Sd/-

Pranab Mukherjee,
President.

Sd/-

Dr. Sanjay Singh,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.

PR



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LVI]

FRIDAY, JUNE 26 2015/ASADHA 5, 1937

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 26th June, 2015.

No. RPB/373-2015/Ord.-06-2015/E :-The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, section 1, dated the 15th May, 2015 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 15th June, 2015/Jyaistha 25, 1937 (Saka)

**THE NEGOTIABLE INSTRUMENTS (AMENDMENT)
ORDINANCE, 2015**

NO. 6 OF 2015.

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

An Ordinance further to amend the Negotiable Instruments Act, 1881.

WHEREAS the Negotiable Instruments (Amendment) Bill, 2015 has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Negotiable Instruments (Amendment) Ordinance, 2015.

Short title and
commencement.

(2) It shall come into force at once.

Amendment
of section 6.

2. In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), in section 6,—

26 of 1881.

(i) in *Explanation I*, for clause (a), the following clause shall be substituted, namely:—

“(a) “a cheque in the electronic form” means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;”;

(ii) after *Explanation II*, the following *Explanation* shall be inserted, namely:—

“*Explanation III*.—For the purposes of this section, the expressions “asymmetric crypto system”, “computer resource”, “digital signature”, “electronic form” and “electronic signature” shall have the same meanings respectively assigned to them in the Information Technology Act, 2000.”

21 of 2000.

Amendment
of section
142.

3. In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.”

Validation for
transfer of
pending cases.

4. In the principal Act, after section 142, the following section shall be inserted, namely:—

“142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases arising out of section 138 which were pending in any court, whether filed before it, or transferred to it, before the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015 shall be transferred to the court having jurisdiction under sub-section (2) of section 142 as if that sub-section had been in force at all material times.

2 of 1974.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142 before which the first case was filed and is pending, as if that sub-section had been in force at all material times.”.

Sd/-

Pranab Mukherjee,
President.

Sd/-

Gangesh Kumar,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 1st October, 2015.

No. RPB/443-2015/Const-100/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 29th May, 2015, Jayeshtha 08, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 28th May, 2015 is hereby published for general information :-

THE CONSTITUTION (ONE HUNDREDTH AMENDMENT) ACT, 2015

AN

(Const. 100/ 2015)

ACT

[28th May, 2015.]

further to amend the Constitution of India to give effect to the acquiring of territories by India and transfer of certain territories to Bangladesh in pursuance of the agreement and its protocol entered into between the Governments of India and Bangladesh.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (One Hundredth Amendment) Act, 2015.

Short title

2. In this Act,-

Definitions.

(a) "acquired territory" means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the First Schedule as are demarcated for the purpose of being acquired by India from Bangladesh in pursuance of the agreement and its protocol referred to in clause (c) ;

(b) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint as the date for acquisition of territories from Bangladesh and transfer of the territories to Bangladesh in pursuance of the India-Bangladesh agreement and its protocol, after causing the territories to be so acquired and transferred as referred to in the First Schedule and Second Schedule and demarcated for the purpose;

(c) "India-Bangladesh agreement" means the agreement between the Government of the Republic of India and the Government of the People's Republic of Bangladesh concerning the Demarcation of the Land Boundary between India and Bangladesh and Related Matters dated the 16th day of May, 1974, Exchange of Letters dated the 26th day of December, 1974, the 30th day of December, 1974, the 7th day of October, 1982, the 26th day of March, 1992 and protocol to the said agreement dated the 6th day of September, 2011, entered into between the Governments of India and Bangladesh, the relevant extracts of which are set out in the Third Schedule;

(d) "transferred territory", means so much of the territories comprised in the India-Bangladesh agreement and its protocol and referred to in the Second Schedule as are demarcated for the purpose of being transferred by India to Bangladesh in pursuance of the agreements and its protocol referred to in clause (c).

3. As from the appointed day, in the First Schedule to the Constitution,—

(a) in the paragraph relating to the territories of the State of Assam, the words, brackets and figures "and the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (a) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part I of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015", shall be added at the end;

(b) in the paragraph relating to the territories of the State of West Bengal, the words, brackets and figures "and also the territories referred to in Part III of the First Schedule but excluding the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (c) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part III of the First Schedule and the territories referred to in Part III of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015", shall be added at the end;

(c) in the paragraph relating to the territories of the State of Meghalaya, the words, brackets and figures "and the territories referred to in Part I of the First Schedule, but excluding the territories referred to in Part II of the Second Schedule to the Constitution (One Hundredth Amendment) Act, 2015", shall be added at the end;

(d) in the paragraph relating to the territories of the State of Tripura, the words, brackets and figures "and the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015, notwithstanding anything contained in clause (d) of section 3 of the Constitution (Ninth Amendment) Act, 1960, so far as it relates to the territories referred to in Part II of the First Schedule to the Constitution (One Hundredth Amendment) Act, 2015", shall be added at the end.

THE FIRST SCHEDULE

[See sections 2(a), 2(b) and 3]

PART I

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (ii) (iii) (iv) (v) of the protocol dated the 6th day of September, 2011.

PART II

The acquired territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (c) (i) of the protocol dated the 6th day of September, 2011.

PART III

The acquired territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (iii) (iv) (v) (vi) of the protocol dated the 6th day of September, 2011.

THE SECOND SCHEDULE

[See sections 2(b), 2(d) and 3]

PART I

The transferred territory in relation to Article 2 of the agreement dated 16th day of May, 1974 and Article 3 (I) (d) (i) (ii) of the protocol dated 6th day of September, 2011.

PART II

The transferred territory in relation to Article 2 of the agreement dated the 16th day of May, 1974 and Article 3 (I) (b) (i) of the protocol dated 6th day of September, 2011.

PART III

The transferred territory in relation to Articles 1(12) and 2 of the agreement dated the 16th day of May, 1974 and Articles 2 (II), 3 (I) (a) (i) (ii) (vi) of the protocol dated the 6th day of September, 2011.

THE THIRD SCHEDULE

[See section 2(c)]

I. EXTRACTS FROM THE AGREEMENT BETWEEN GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATION OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS DATED THE 16TH DAY OF MAY, 1974

Article 1 (12): ENCLAVES

The Indian enclaves in Bangladesh and the Bangladesh enclaves in India should be exchanged expeditiously, excepting the enclaves mentioned in paragraph 14 without claim to compensation for the additional area going to Bangladesh.

Article 2:

The Governments of India and Bangladesh agree that territories in adverse possession in areas already demarcated in respect of which boundary strip maps are already prepared, shall be exchanged within six months of the signing of the boundary strip maps by the plenipotentiaries. They may sign the relevant maps as early as possible and in any case not later than the 31st December, 1974. Early measures may be taken to print maps in respect of other areas where demarcation has already taken place. These should be printed by the 31st May, 1975 and signed by the plenipotentiaries thereafter in order that the exchange of adversely held possessions in these areas may take place by the 31st December, 1975. In sectors still to be demarcated, transfer of territorial jurisdiction may take place within six months of the signature by plenipotentiaries on the concerned boundary strip maps.

II. EXTRACTS FROM THE PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH CONCERNING THE DEMARCATION OF THE LAND BOUNDARY BETWEEN INDIA AND BANGLADESH AND RELATED MATTERS, DATED THE 6TH DAY OF SEPTEMBER, 2011

Article 2:

(II) Article 1 Clause 12 of the 1974 Agreement shall be implemented as follows:—

Enclaves

111 Indian Enclaves in Bangladesh and 51 Bangladesh Enclaves in India as per the jointly verified cadastral enclave maps and signed at the level of DGLR&S, Bangladesh and DLR&S, West Bengal (India) in April, 1997, shall be exchanged without claim to compensation for the additional areas going to Bangladesh.

Article 3:

(I) Article 2 of the 1974 Agreement shall be implemented as follows:—

The Government of India and the Government of Bangladesh agree that the boundary shall be drawn as a fixed boundary for territories held in Adverse Possession as determined through joint survey and fully depicted in the respective adversely possessed land area Index Map (APL map) finalised by the Land Records and Survey Departments of both the countries between December, 2010 and August, 2011, which are fully described in clause (a) to (d) below.

The relevant strip maps shall be printed and signed by the Plenipotentiaries and transfer of territorial jurisdiction shall be completed simultaneously with the exchange of enclaves. The demarcation of the boundary, as depicted in the above-mentioned Index Maps, shall be as under:—

(a) West Bengal Sector

(i) Bousmari – Madhugari (Kushtia-Nadia) area

The boundary shall be drawn from the existing Boundary Pillar Nos. 154/5-S to 157/1-S to follow the centre of old course of river Mathabanga, as depicted in consolidation map of 1962, as surveyed jointly and agreed in June, 2011.

(ii) *Andharkota (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 152/5-S to Boundary Pillar No. 153/1-S to follow the edge of existing River Mathabanga as jointly surveyed and agreed in June, 2011.

(iii) *Pakuria (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 151/1-S to Boundary Pillar No. 152/2-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

(iv) *Char Mahishkundi (Kushtia-Nadia) area*

The boundary shall be drawn from existing Boundary Pillar No. 153/1-S to Boundary Pillar No. 153/9-S to follow the edge of River Mathabanga as jointly surveyed and agreed in June, 2011.

(v) *Haripal/Khutadah/Battoli/Sapameri/LNpur (Patari) (Naogaon-Malda) area*

The boundary shall be drawn as line joining from existing Boundary Pillar No. 242/S/13, to Boundary Pillar No. 243/7-S/5 and as jointly surveyed and agreed in June, 2011.

(vi) *Berubari (Panchagarh-Jalpaiguri area)*

The boundary in the area Berubari (Panchagarh-Jalpaiguri) adversely held by Bangladesh, and Berubari and Singhapara-Khudipara (Panchagarh-Jalpaiguri), adversely held by India shall be drawn as jointly demarcated during 1996-1998.

(b) **Meghalaya Sector**(i) *Lobachera-Nuncherra*

The boundary from existing Boundary Pillar No. 1315/4-S to Boundary Pillar No. 1315/15-S in Lailong - Balichera, Boundary Pillar No. 1316/1-S to Boundary Pillar No. 1316/11-S in Lailong- Noonchera, Boundary Pillar No. 1317 to Boundary Pillar No. 1317/13-S in Lailong- Lahiling and Boundary Pillar No. 1318/1-S to Boundary Pillar No. 1318/2-S in Lailong- Lobhachera shall be drawn to follow the edge of tea gardens as jointly surveyed and agreed in December, 2010.

(ii) *Pyrdiwah/ Padua Area*

The boundary shall be drawn from existing Boundary Pillar No. 1270/1-S as per jointly surveyed and mutually agreed line till Boundary Pillar No. 1271/1-T. The Parties agree that the Indian Nationals from Pyrdiwah village shall be allowed to draw water from Piyang River near point No. 6 of the agreed Map.

(iii) *Lyngkhat Area*(aa) *Lyngkhat-I / Kulumcherra and Lyngkhat-II/ Kulumcherra*

The boundary shall be drawn from existing Boundary Pillar No. 1264/4-S to Boundary Pillar No. 1265 and BP No. 1265/6-S to 1265/9-S as per jointly surveyed and mutually agreed line.

(ab) *Lyngkhat-III/Sonarhat*

The boundary shall be drawn from existing Boundary Pillar No. 1266/13-S along the nallah southwards till it meets another nallah in the east-west direction, thereafter it shall run along the northern edge of the nallah in east till it meets the existing International Boundary north of Reference Pillar Nos. 1267/4-R-B and 1267/3-R-I.

(iv) *Dawki/Tamabil area*

The boundary shall be drawn by a straight line joining existing Boundary Pillar Nos. 1275/1-S to Boundary Pillar Nos. 1275/7-S. The Parties agree to fencing on 'zero line' in this area.

(v) *Naljuri/Sreepur Area*(aa) *Naljuri I*

The boundary shall be a line from the existing Boundary Pillar No. 1277/2-S in southern direction up to three plots as depicted in the strip Map No. 166 till it meets the nallah flowing from Boundary Pillar No. 1277/5-T, thereafter it will run along the western edge of the nallah in the southern direction up to 2 plots on the Bangladesh side, thereafter it shall run eastwards till it meets a line drawn in southern direction from Boundary Pillar No. 1277/4-S.

(ab) *Naljuri III*

The boundary shall be drawn by a straight line from existing Boundary Pillar No. 1278/2-S to Boundary Pillar No. 1279/3-S.

(vi) *Muktapur/ Dibir Hawor Area*

The Parties agree that the Indian Nationals shall be allowed to visit Kali Mandir and shall also be allowed to draw water and exercise fishing rights in the water body in the Muktapur / Dibir Hawor area from the bank of Muktapur side.

(c) **Tripura Sector**(i) *Chandannagar-Champarai Tea Garden area in Tripura/ Moulvi Bazar sector*

The boundary shall be drawn along Sonaraichhera river from existing Boundary Pillar No. 1904 to Boundary Pillar No. 1905 as surveyed jointly and agreed in July, 2011.

(d) **Assam Sector**(i) *Kalabari (Boroibari) area in Assam sector*

The boundary shall be drawn from existing Boundary Pillar No. 1066/24-T to Boundary Pillar No. 1067/16-T as surveyed jointly and agreed in August, 2011.

(ii) *Pallathal area in Assam sector*

The boundary shall be drawn from existing Boundary Pillar No. 1370/3-S to 1371/6-S to follow the outer edge of the tea garden and from Boundary Pillar No. 1372 to 1373/2-S along outer edge of the pan plantation.

III. LIST OF EXCHANGE OF ENCLAVES BETWEEN INDIA AND BANGLADESH IN PURSUANT TO ARTICLE 1 (12) OF THE AGREEMENT DATED 16TH MAY 1974 AND THE PROTOCOL TO THE AGREEMENT DATED 6TH SEPTEMBER, 2011

A. EXCHANGEABLE INDIAN ENCLAVES IN BANGLADESH WITH AREA

| Sl. No. | Name of Chhits | Chhit No. | Lying within Police station Bangladesh | Lying within Police station W. Bengal | Area in acres |
|--|----------------|-----------|--|---------------------------------------|---------------|
| <i>A. Enclaves with independent chhits</i> | | | | | |
| 1. | Garati | 75 | Pochagar | Haldibari | 58.23 |
| 2. | Garati | 76 | Pochagar | Haldibari | 0.79 |
| 3. | Garati | 77 | Pochagar | Haldibari | 18 |

| Sl. No. | Name of Chhits | Chhit No. | Lying within Police station Bangladesh | Lying within Police station W. Bengal | Area in acres |
|---------|------------------------------|-----------|--|---------------------------------------|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 4. | Garati | 78 | Pochagar | Haldibari | 958.66 |
| 5. | Garati | 79 | Pochagar | Haldibari | 1.74 |
| 5. | Garati | 80 | Pochagar | Haldibari | 73.75 |
| 7. | Bingimari Part-I | 73 | Pochagar | Haldibari | 6.07 |
| 8. | Nazirganja | 41 | Boda | Haldibari | 58.32 |
| 9. | Nazirganja | 42 | Boda | Haldibari | 434.29 |
| 10. | Nazirganja | 44 | Boda | Haldibari | 53.47 |
| 11. | Nazirganja | 45 | Boda | Haldibari | 1.07 |
| 12. | Nazirganja | 46 | Boda | Haldibari | 17.95 |
| 13. | Nazirganja | 47 | Boda | Haldibari | 3.89 |
| 14. | Nazirganja | 48 | Boda | Haldibari | 73.27 |
| 15. | Nazirganja | 49 | Boda | Haldibari | 49.05 |
| 16. | Nazirganja | 50 | Boda | Haldibari | 5.05 |
| 17. | Nazirganja | 51 | Boda | Haldibari | 0.77 |
| 18. | Nazirganja | 52 | Boda | Haldibari | 1.04 |
| 19. | Nazirganja | 53 | Boda | Haldibari | 1.02 |
| 20. | Nazirganja | 54 | Boda | Haldibari | 3.87 |
| 21. | Nazirganja | 55 | Boda | Haldibari | 12.18 |
| 22. | Nazirganja | 56 | Boda | Haldibari | 54.04 |
| 23. | Nazirganja | 57 | Boda | Haldibari | 8.27 |
| 24. | Nazirganja | 58 | Boda | Haldibari | 14.22 |
| 25. | Nazirganja | 60 | Boda | Haldibari | 0.52 |
| 26. | Putimari | 59 | Boda | Haldibari | 122.8 |
| 27. | Daikhata Chhat | 38 | Boda | Haldibari | 499.21 |
| 28. | Salbari | 37 | Boda | Haldibari | 1188.93 |
| 29. | Kajal Dighi | 36 | Boda | Haldibari | 771.44 |
| 30. | Nataktoka | 32 | Boda | Haldibari | 162.26 |
| 31. | Nataktoka | 33 | Boda | Haldibari | 0.26 |
| 32. | Beuladanga Chhat | 35 | Boda | Haldibari | 0.83 |
| 33. | Balapara Iagrabar | 3 | Debiganj | Haldibari | 1752.44 |
| 34. | Bara Khankikharija Citaldaha | 30 | Dimla | Haldibari | 7.71 |
| 35. | Bara Khankikharija Citaldaha | 29 | Dimla | Haldibari | 36.83 |
| 36. | Barakhangir | 28 | Dimla | Haldibari | 30.53 |

| Sl. No. | Name of Chhits | Chhit No. | Lying within Police station Bangladesh | Lying within Police station W. Bengal | Area in acres |
|---------|-----------------------|---------------------------------------|--|---------------------------------------|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 37. | Nagarjikobari | 31 | Dimla | Haldibari | 33.41 |
| 38. | Kuchlibari | 26 | Patgram | Mekliganj | 5.78 |
| 39. | Kuchlibari | 27 | Patgram | Mekliganj | 2.04 |
| 40. | Bara Kuchlibari | Fragment of J.L. 107 of P.S Mekliganj | Patgram | Mekliganj | 4.35 |
| 41. | Jamaldaha-Balapukhari | 6 | Patgram | Mekliganj | 5.24 |
| 42. | Uponchowki kuchlibari | 115/2 | Patgram | Mekliganj | 0.32 |
| 43. | Uponchowki kuchlibari | 7 | Patgram | Mekliganj | 44.04 |
| 44. | Bhothnri | 11 | Patgram | Mekliganj | 36.83 |
| 45. | Balapukhari | 5 | Patgram | Mekliganj | 55.91 |
| 46. | Bara Khangir | 4 | Patgram | Mekliganj | 50.51 |
| 47. | Bara Khangir | 9 | Patgram | Mekliganj | 87.42 |
| 48. | Chhat Bogdokra | 10 | Patgram | Mekliganj | 41.7 |
| 49. | Ratanpur | 11 | Patgram | Mekliganj | 58.91 |
| 50. | Bogdokra | 12 | Patgram | Mekliganj | 25.49 |
| 51. | Fulker Dabri | Fragment of J.L. 107 of P.S Mekliganj | Patgram | Mekliganj | 0.88 |
| 52. | Kharkharia | 15 | Patgram | Mekliganj | 60.74 |
| 53. | Kharkharia | 13 | Patgram | Mekliganj | 51.62 |
| 54. | Lotamari | 14 | Patgram | Mekliganj | 110.92 |
| 55. | Bhotbari | 16 | Patgram | Mekliganj | 205.46 |
| 56. | Komat Changrabandha | 16A | Patgram | Mekliganj | 42.3 |
| 57. | Komat Changrabandha | 17A | Patgram | Mekliganj | 16.01 |
| 58. | Panisala | 17 | Patgram | Mekliganj | 137.66 |
| 59. | Dwarikamari Khasbash | 18 | Patgram | Mekliganj | 36.5 |
| 60. | Panisala | 153/P | Patgram | Mekliganj | 0.27 |
| 61. | Panisala | 153/O | Patgram | Mekliganj | 18.01 |
| 62. | Panisala | 19 | Patgram | Mekliganj | 64.63 |
| 63. | Panisala | 21 | Patgram | Mekliganj | 51.4 |
| 64. | Lotamari | 20 | Patgram | Mekliganj | 283.53 |
| 65. | Lotamari | 22 | Patgram | Mekliganj | 98.85 |
| 66. | Dwarikamari | 23 | Patgram | Mekliganj | 39.52 |
| 67. | Dwarikamari | 25 | Patgram | Mekliganj | 45.73 |
| 68. | Chhat Bhothat | 24 | Patgram | Mekliganj | 56.11 |
| 69. | Baakata | 131 | Patgram | Hathabhanga | 22.35 |

| Sl. No. | Name of Chhits | Chhit No. | Lying within Police station Bangladesh | Lying within Police station W. Bengal | Area in acres |
|---------|------------------------|-----------|--|---------------------------------------|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 70. | Baakata | 132 | Patgram | Hathabhanga | 11.96 |
| 71. | Baakata | 130 | Patgram | Hathibhanga | 20.48 |
| 72. | Bhogramguri | 133 | Patgram | Hathibhanga | 1.44 |
| 73. | Chenakata | 134 | Patgram | Mekliganj | 7.81 |
| 74. | Banskata | 119 | Patgram | Mathabanga | 413.81 |
| 75. | Banskata | 120 | Patgram | Mathabanga | 30.75 |
| 76. | Banskata | 121 | Patgram | Mathabanga | 12.15 |
| 77. | Banskata | 113 | Patgram | Mathabanga | 57.86 |
| 78. | Banskata | 112 | Patgram | Mathabanga | 315.04 |
| 79. | Banskata | 114 | Patgram | Mathabanga | 0.77 |
| 80. | Banskata | 115 | Patgram | Mathabanga | 29.2 |
| 81. | Banskata | 122 | Patgram | Mathabanga | 33.22 |
| 82. | Banskata | 127 | Patgram | Mathabanga | 12.72 |
| 83. | Banskata | 128 | Patgram | Mathabanga | 2.33 |
| 84. | Banskata | 117 | Patgram | Mathabanga | 2.55 |
| 85. | Banskata | 118 | Patgram | Mathabanga | 30.98 |
| 86. | Banskata | 125 | Patgram | Mathabanga | 0.64 |
| 87. | Banskata | 126 | Patgram | Mathabanga | 1.39 |
| 88. | Banskata | 129 | Patgram | Mathabanga | 1.37 |
| 89. | Banskata | 116 | Patgram | Mathabanga | 16.96 |
| 90. | Banskata | 123 | Patgram | Mathabanga | 24.37 |
| 91. | Banskata | 124 | Patgram | Mathabanga | 0.28 |
| 92. | Gotamari Chhit | 135 | Hatibandha | Sitalkuchi | 126.59 |
| 93. | Gotamari Chhit | 136 | Hatibandha | Sitalkuchi | 20.02 |
| 94. | Banapachai | 151 | Lalmonirhat | Dinhata | 217.29 |
| 95. | Banapachai Bhitarkuthi | 152 | Lalmonirhat | Dinhata | 81.71 |
| 96. | Dasiar Chhara | 150 | Fulbari | Dinhata | 1643.44 |
| 97. | Dakurhat- Dakinirkuthi | 156 | Kurigram | Dinhata | 14.27 |
| 98. | Kalamati | 141 | Bhurungamari | Dinhata | 21.21 |
| 99. | Bhahobganj | 153 | Bhurungamari | Dinhata | 31.58 |
| 100. | Baotikursa | 142 | Bhurungamari | Dinhata | 45.63 |
| 101. | Bara Coachulka | 143 | Bhurungamari | Dinhata | 39.99 |
| 102. | Gaochulka II | 147 | Bhurungamari | Dinhata | 0.9 |
| 103. | Gaochulka I | 146 | Bhurungamari | Dinhata | 8.92 |

| Sl. No. | Name of Chhits | Chhit No. | Lying within Police station Bangladesh | Lying within Police station W. Bengal | Area in acres |
|---------|---|-----------|--|---------------------------------------|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 104. | Dighaltari II | 145 | Bhurungamari | Dinhata | 8.81 |
| 105. | Dighaltari I | 144 | Bhurungamari | Dinhata | 12.31 |
| 106. | Chhoto Garaljhora II | 149 | Bhurungamari | Dinhata | 17.85 |
| 107. | Chhoto Garaljhora I | 148 | Bhurungamari | Dinhata | 35.74 |
| 108. | 1 chhit *without name & JL No. at the southern and of JL No. 38 & southern and of JL No. 39 (locally known as Ashokabari**) | | Patgram | Mathabhanga | 3.5 |

Enclaves with Fragmented Chhits

| | | | | | |
|------|-----------------|------------|-----------|----------|----------|
| 109. | (i) Bewladanga | 34 | Haldibari | Boda | 862.46 |
| | (ii) Bewladanga | Fragment | Haldibari | Debiganj | |
| 110. | (i) Kotbhajni | 2 | Haldibari | Debiganj | 2012.27 |
| | (ii) Kotbhajni | Fragment | Haldibari | Debiganj | |
| | (iii) Kotbhajni | Fragment | Haldibari | Debiganj | |
| | (iv) Kotbhajni | Fragment | Haldibari | Debiganj | |
| 111. | (i) Dahala | Khagrabari | Haldibari | Debiganj | 2650.35 |
| | (ii) Dahala | Fragment | Haldibari | Debiganj | |
| | (iii) Dahala | Fragment | Haldibari | Debiganj | |
| | (iv) Dahala | Fragment | Haldibari | Debiganj | |
| | (v) Dahala | Fragment | Haldibari | Debiganj | |
| | (vi) Dahala | Fragment | Haldibari | Debiganj | |
| | | | | | 17160.63 |

The above given details of enclaves have been jointly compared and reconciled with records held by India and Bangladesh during the Indo-Bangladesh Conference held at Calcutta during 9th — 12th October, 1996 as well as during joint field inspection at Jalpaiguri (West Bengal) Panchagarh (Bangladesh) sector during 21—24 November, 1996.

Note: Name of enclave in Sl. No. 108 above has been identified as Ashokabari by joint ground verification during field season 1996-97.

Brig. J.R. Peter
Director Land Records & Survey
(Ex-Officio) West Bengal, India &
Director, Eastern Circle
Survey of India, Calcutta.

Md. Shafi Uddin
Director General, Land Records
and Surveys, Bangladesh.

* Corrected vide 150th (54th) India-Bangladesh Boundary Conference held at Kolkata from 29th September to 2nd October, 2002.

** Corrected vide 152nd (56th) India-Bangladesh Boundary Conference held at Kochbihar, India from 18th—20th September, 2003.

25/2

B. EXCHANGEABLE BANGLADESH ENCLAVES IN INDIA WITH AREA

| Sl. No. | Name of Chhits | Lying within Police station W. Bengal | Lying within Police station Bangladesh | J.L. No. | Area in acres |
|--|-------------------------------|---------------------------------------|--|----------|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| <i>A. Enclaves with independent chhits</i> | | | | | |
| 1. | Chhit Kuchlibari | Mekliganj | Patgram | 22 | 370.64 |
| 2. | Chhit Land of Kuchlibari | Mekliganj | Patgram | 24 | 1.83 |
| 3. | Balapukhari | Mekliganj | Patgram | 21 | 331.64 |
| 4. | Chhit Land of Panbari No.2 | Mekliganj | Patgram | 20 | 1.13 |
| 5. | Chhit Panbari | Mekliganj | Patgram | 18 | 108.59 |
| 6. | Dhabalsati Mirgipur | Mekliganj | Patgram | 15 | 173.88 |
| 7. | Bamandal | Mekliganj | Patgram | 11 | 2.24 |
| 8. | Chhit Dhabalsati | Mekliganj | Patgram | 14 | 66.58 |
| 9. | Dhabalsati | Mekliganj | Patgram | 13 | 60.45 |
| 10. | Srirampur | Mekliganj | Patgram | 8 | 1.05 |
| 11. | Jote Nijjama | Mekliganj | Patgram | 3 | 87.54 |
| 12. | Chhit Land of Jagatber No.3 | Mathabhanga | Patgram | 37 | 69.84 |
| 13. | Chhit Land of Jagatber No.1 | Mathabhanga | Patgram | 35 | 30.66 |
| 14. | Chhit Land of Jagatber No.2 | Mathabhanga | Patgram | 36 | 27.09 |
| 15. | Chhit Kokoabari | Mathabhanga | Patgram | 47 | 29.49 |
| 16. | Chhit Bhandardaha | Mathabhanga | Patgram | 67 | 39.96 |
| 17. | Dhabalguri | Mathabhanga | Patgram | 52 | 12.5 |
| 18. | Chhit Dhabalguri | Mathabhanga | Patgram | 53 | 22.31 |
| 19. | Chhit Land of Dhabalguri No.3 | Mathabhanga | Patgram | 70 | 1.33 |
| 20. | Chhit Land of Dhabalguri No.4 | Mathabhanga | Patgram | 71 | 4.55 |
| 21. | Chhit Land of Dhabalguri No.5 | Mathabhanga | Patgram | 72 | 4.12 |
| 22. | Chhit Land of Dhabalguri No.1 | Mathabhanga | Patgram | 68 | 26.83 |
| 23. | Chhit Land of Dhabalguri No.2 | Mathabhanga | Patgram | 69 | 13.95 |
| 24. | Mahishmari | Sitalkuchi | Patgram | 54 | 122.77 |
| 25. | Bura Saradubi | Sitalkuchi | Hatibadha | 13 | 34.96 |
| 26. | Falnapur | Sitalkuchi | Patgram | 64 | 505.56 |
| 27. | Amjhol | Sitalkuchi | Hatibandha | 57 | 1.25 |
| 28. | Kismat Batrigachh | Dinhata | Kaliganj | 82 | 209.95 |
| 29. | Durgapur | Dinhata | Kaliganj | 83 | 20.95 |
| 30. | Bansua Khamar Gitaldaha | Dinhata | Lalmonirhat | 1 | 24.54 |
| 31. | Poaturkuthi | Dinhata | Lalmonirhat | 37 | 589.94 |
| 32. | Paschim Bakalir Chhara | Dinhata | Bhurungamari | 38 | 151.98 |

| Sl. No. | Name of Chhits | Lying within Police station W. Bengal | Lying within Police station Bangladesh | J.L. No. | Area in acres |
|---|--|---------------------------------------|--|----------|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 33. | Madhya Bakalir Chhara | Dinhata | Bhurungamari | 39 | 32.72 |
| 34. | Purba Bakalir Chhara | Dinhata | Bhurungamari | 40 | 12.23 |
| 35. | Madhya Masaldanga | Dinhata | Bhurungamari | 3 | 136.66 |
| 36. | Madhya Chhit Masaldanga | Dinhata | Bhurungamari | 8 | 11.87 |
| 37. | Paschim Chhit Masaldanga | Dinhata | Bhurungamari | 7 | 7.6 |
| 38. | Uttar Masaldanga | Dinhata | Bhurungamari | 2 | 27.29 |
| 39. | Kachua | Dinhata | Bhurungamari | 5 | 119.74 |
| 40. | Uttar Bans | Tufanganj | Bhurungamari | 1 | 47.17 |
| 41. | Chhat Tilai | Tufanganj | Bhurungamari | 17 | 81.56 |
| <i>B. Enclaves with Fragmented Chhits</i> | | | | | |
| 42. | (i) Nalgram | Sitalkuchi | Patgarm | 65 | 1397.34 |
| | (ii) Nalgram (Fragment) | Sitalkuchi | Patgarm | 65 | |
| | (iii) Nalgram (Fragment) | Sitalkuchi | Patgarm | 65 | |
| 43. | (i) Chhit Nalgram | Sitalkuchi | Patgarm | 66 | 49.5 |
| | (ii) Chhit Nalgram (Fragment) | Sitalkuchi | Patgarm | 66 | |
| 44. | (i) Batrigachh | Dinhata | Kaliganj | 81 | 577.37 |
| | (ii) Batrigachh (Fragment) | Dinhata | Kaliganj | 81 | |
| | (iii) Batrigachh (Fragment) | Dinhata | Phulbari | 9 | |
| 45. | (i) Karala | Dinhata | Phulbari | 9 | 269.91 |
| | (ii) Karala (fragment) | Dinhata | Phulbari | 9 | |
| | (iii) Karala (fragment) | Dinhata | Phulbari | 8 | |
| 46. | (i) Sipprasad Mustati | Dinhata | Phulbari | 8 | 373.2 |
| | (ii) Sipprasad Mustati (Fragment) | Dinhata | Phulbari | 6 | |
| 47. | (i) Dakshin Masaldanga | Dinhata | Bhurungamari | 6 | 571.38 |
| | (ii) Dakshin Masaldanga (Fragment) | Dinhata | Bhurungamari | 6 | |
| | (iii) Dakshin Masaldanga (Fragment) | Dinhata | Bhurungamari | 6 | |
| | (iv) Dakshin Masaldanga (Fragment) | Dinhata | Bhurungamari | 6 | |
| | (v) Dakshin Masaldanga (Fragment) | Dinhata | Bhurungamari | 6 | |
| | (vi) Dakshin Masaldanga (Fragment) | Dinhata | Bhurungamari | 6 | |
| 48. | (i) Paschim Masaldanga | Dinhata | Bhurungamari | 4 | 29.49 |
| | (ii) Paschim Masaldanga (Fragment) | Dinhata | Bhurungamari | 4 | |
| 49. | (i) Purba Chhit Masaldanga | Dinhata | Bhurungamari | 10 | 35.01 |
| | (ii) Purba Chhit Masaldanga (Fragment) | Dinhata | Bhurungamari | 10 | |
| 50. | (i) Purba Masaldanga | Dinhata | Bhurungamari | 11 | 153.89 |

| Sl. No. | Name of Chhits | Lying within Police station W. Bengal | Lying within Police station Bangladesh | J.L. No. | Area in acres |
|------------|----------------------------------|---------------------------------------|--|----------|---------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | (ii) Purba Masaldanga (Fragment) | Dinhata | Bhurungamari | 11 | |
| 51. | (i) Uttar Dhaldanga | Tufanganj | Bhurungamari | 14 | 24.98 |
| | (ii) Uttar Dhaldanga (Fragment) | Tufanganj | Bhurungamari | 14 | |
| | (iii) Uttar Dhaldanga (Fragment) | Tufanganj | Bhurungamari | 14 | |
| Total Area | | | | | 7,110.02 |

The above given details of enclaves have been jointly compared and reconciled with records held by India and Bangladesh during the Indo-Bangladesh Conference held at Calcutta during 9th—12th October, 1996 as well as during joint field inspection at Jalpaiguri (West Bengal) – Panchagarh (Bangladesh) sector during 21—24 November, 1996.

Brig. J.R. Peter
Director Land Records & Survey
(*Ex Officio*) West Bengal, India &
Director, Eastern Circle
Survey of India, Calcutta.

Md. Shafi Uddin
Director General, Land Records
and Surveys, Bangladesh.

Sd/-
B.N.S.V.S.K. Bangarraju,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
C. J. Gothi
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5th October, 2015.

No. RPB/449-2015/Act.-1-15-E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 11th March, 2015, Phalgun, 20, 1936 (Saka)

The following Act of Parliament has received the assent of the President on the 10th March, 2015, is hereby published for general information :-

THE CITIZENSHIP (AMENDMENT) ACT, 2015.

AN

(Act No. 1 of 2015)

ACT

[10th March, 2015.]

further to amend the Citizenship Act, 1955.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizenship (Amendment) Act, 2015.

(2) It shall be deemed to have come into force on the 6th day of January, 2015.

Short title
and
commencement

57 of 1955.

2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), for clause (ee), the following clause shall be substituted, namely:—

Amendment
of section 2.

'(ee) "Overseas Citizen of India Cardholder" means a person registered as an Overseas Citizen of India Cardholder by the Central Government under section 7A;'

3. In the principal Act, in section 5,—

Amendment
of section 5.

(i) in sub-section (1),—

(a) in clause (f), for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;

(b) in clause (g),—

(A) for the words "Overseas Citizen of India", the words "Overseas Citizen of India Cardholder" shall be substituted;

(B) for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;

(ii) after sub-section (I), the following sub-section shall be inserted, namely:—

"(IA) The Central Government, if it is satisfied that special circumstances exist, may after recording the circumstances in writing, relax the period of twelve months, specified in clauses (f) and (g) and clause (i) of *Explanation 1* of sub-section (I), up to a maximum of thirty days which may be in different breaks."

4. In the principal Act, for sections 7A, 7B, 7C and section 7D, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 7A,
7B, 7C and
section 7D.

Registration
of Overseas
Citizen of
India
Cardholder.

"7A. (I) The Central Government may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, register as an Overseas Citizen of India Cardholder—

(a) any person of full age and capacity,—

(i) who is a citizen of another country, but was a citizen of India at the time of, or at any time after the commencement of the Constitution; or

(ii) who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is a citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or

(iv) who is a child or a grandchild or a great grandchild of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause (a); or

(c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or

(d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India Cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section:

Provided that for the eligibility for registration as an Overseas Citizen of India Cardholder, such spouse shall be subjected to prior security clearance by a competent authority in India:

Provided further that no person, who or either of whose parents or grandparents or great grandparents is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an Overseas Citizen of India Cardholder under this sub-section.

(2) The Central Government may, by notification in the Official Gazette, specify the date from which the existing Persons of Indian Origin Cardholders shall be deemed to be Overseas Citizens of India Cardholders.

Explanation.— For the purposes of this sub-section, "Persons of Indian Origin Cardholders" means the persons registered as such under notification number 26011/4/98 F.I., dated the 19th August, 2002, issued by the Central Government in this regard.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that special circumstances exist, after recording the circumstances in writing, register a person as an Overseas Citizen of India Cardholder.

7B. (1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India Cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Conferment
of rights on
Overseas
Citizen of
India
Cardholder.

(2) An Overseas Citizen of India Cardholder shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a Judge of the High Court;

43 of 1950.

(f) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter;

43 of 1951.

(g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

43 of 1951.

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State;

(i) for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in such services and posts as the Central Government may, by special order in that behalf, specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

7C. (1) If any Overseas Citizen of India Cardholder of full age and capacity makes in prescribed manner a declaration renouncing the Card registering him as an Overseas Citizen of India Cardholder, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an Overseas Citizen of India Cardholder.

Renunciation
of Overseas
Citizen of
India Card.

(2) Where a person ceases to be an Overseas Citizen of India Cardholder under sub-section (1), the spouse of foreign origin of that person, who has obtained Overseas Citizen of India Card under clause (d) of sub-section (1) of section 7A, and every minor child of that person registered as an Overseas Citizen of India Cardholder shall thereupon cease to be an Overseas Citizen of India Cardholder.

7D. The Central Government may, by order, cancel the registration granted under sub-section (1) of section 7A, if it is satisfied that—

(a) the registration as an Overseas Citizen of India Cardholder was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) the Overseas Citizen of India Cardholder has shown disaffection towards the Constitution, as by law established; or

(c) the Overseas Citizen of India Cardholder has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or

Cancellation
of
registration
as Overseas
Citizen of
India
Cardholder.

been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) the Overseas Citizen of India Cardholder has, within five years after registration under sub-section (1) of section 7A, been sentenced to imprisonment for a term of not less than two years; or

(e) it is necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public; or

(f) the marriage of an Overseas Citizen of India Cardholder, who has obtained such Card under clause (d) of sub-section (1) of section 7A,—

(i) has been dissolved by a competent court of law or otherwise; or

(ii) has not been dissolved but, during the subsistence of such marriage, he has solemnised marriage with any other person."

Amendment
of section 18.

5. In the principal Act, in section 18, in sub-section (2), after clause (ee), the following clauses shall be inserted, namely:—

"(eea) the conditions and the manner subject to which a person may be registered as an Overseas Citizen of India Cardholder under sub-section (1) of section 7A;

(eeb) the manner of making declaration for renunciation of Overseas Citizen of India Card under sub-section (1) of section 7C;"

Amendment
of Third
Schedule.

6. In the principal Act, in the Third Schedule, in clause (c), the following proviso shall be inserted, namely:—

"Provided that if the Central Government is satisfied that special circumstances exist, it may, after recording the circumstances in writing, relax the period of twelve months up to a maximum of thirty days which may be in different breaks."

Repeal and
savings.

7. (1) The Citizenship (Amendment) Ordinance, 2015 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Ord. 1 of
2015.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. GOTHI,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5th October, 2015.

No. RPB/450-2015/Act.-2-15-E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 14th March, 2015, Phalgun, 23, 1936 (Saka)

The following Act of Parliament has received the assent of the President on the 13th March, 2015, is hereby published for general information :-

THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) AMENDMENT) ACT, 2015.

AN

(Act No. 2 of 2015)

ACT

[13th March, 2015.]

further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 2015.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

40 of 1971.

2. In the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the principal Act), in section 2, in clause (e), in sub-clause (2),—

Amendment of section 2.

1 of 1956.

18 of 2013.

(A) in item (i), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted;

1 of 1956.

18 of 2013.

(B) in item (ii), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted;

(C) for item (iii), the following items shall be substituted, namely:—

'(iii) any company as defined in clause (20) of section 2 of the Companies Act, 2013 in which not less than fifty-one per cent. of the paid up capital is held partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary (within the meaning of that Act) of the first-mentioned company and which carries on the business of public transport including metro railway. 18 of 2013.

Explanation.— For the purposes of this item, "metro railway" shall have the same meaning as assigned to it in clause (i) of sub-section (1) of section 2 of the Metro Railway (Operation and Maintenance) Act, 2002; 60 of 2002.

(iiia) any University established or incorporated by any Central Act; ;
(D) for item (v), the following item shall be substituted, namely:—

"(v) any Board of Trustees or any successor company constituted under or referred to in the Major Port Trusts Act, 1963;"; 38 of 1963.

(E) in sub-clause (3),—

(a) in item (i), for the words "Municipal Corporation", the words, brackets and figures "Council as defined in clause (9) of section 2 of the New Delhi Municipal Council Act, 1994 or Corporation or Corporations notified under sub-section (1) of section 3 of the Delhi Municipal Corporation Act, 1957," shall be substituted; 44 of 1994.
66 of 1957.

(b) after item (iii), the following item shall be inserted, namely:—

'(iv) any premises belonging to, or taken on lease by, or on behalf of any Government company as defined in clause (45) of section 2 of the Companies Act, 2013. 18 of 2013.

Explanation.— For the purposes of this clause, the expression, "State Government" occurring in clause (45) of the said section shall mean the Government of the National Capital Territory of Delhi.'

(F) in clause (fa),—

(a) in sub-clause (ii), after the words, brackets and figures "in item (i) of sub-clause (2)", the words, brackets and figures "and in item (iv) of sub-clause (3)" shall be inserted;

(b) in sub-clause (v), for the word "Corporation", the words "Council, Corporation or Corporations" shall be substituted.

Amendment
of section 4.

3. In section 4 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) If the estate officer has information that any person is in unauthorised occupation of any public premises and that he should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing within seven working days from the date of receipt of the information regarding the unauthorised occupation calling upon the person concerned to show cause why an order of eviction should not be made.

(1A) If the estate officer knows or has reasons to believe that any person is in unauthorised occupation of the public premises, then, without prejudice to the provisions of sub-section (1), he shall forthwith issue a notice in writing calling upon the person concerned to show cause why an order of eviction should not be made.

(1B) Any delay in issuing a notice referred to in sub-sections (1) and (1A) shall not vitiate the proceedings under this Act.";

(b) in sub-section (2), in clause (b), in sub-clause (i), for the words "earlier than", the words "later than" shall be substituted.

Amendment
of section 5.

4. In section 5 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under sub-clause (ii) of clause (b) of sub-section (2) of section 4, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer shall make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order but not later than fifteen days from the date of the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises:

Provided that every order under this sub-section shall be made by the estate officer as expeditiously as possible and all endeavour shall be made by him to issue the order within fifteen days of the date specified in the notice under sub-section (1) or sub-section (1A), as the case may be, of section 4.";

(b) after sub-section (2), the following proviso shall be inserted, namely:—

"Provided that if the estate officer is satisfied, for reasons to be recorded in writing, that there exists any compelling reason which prevents the person from vacating the premises within fifteen days, the estate officer may grant another fifteen days from the date of expiry of the order under sub-section (1) to the person to vacate the premises."

5. In section 7 of the principal Act,—

Amendment
of section 7.

(a) in sub-section (2A), for the words "simple interest", the words "compound interest" shall be substituted;

(b) in sub-section (3), for the words "within such time as may be specified in the notice", the words "within seven days from the date of issue thereof" shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every order under this section shall be made by the estate officer as expeditiously as possible and all endeavour shall be made by him to issue the order within fifteen days of the date specified in the notice."

6. In section 9 of the principal Act,—

Amendment
of section 9.

(a) in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—

"Provided that the appellate officer may entertain the appeal in exceptional cases after the expiry of the said period, if he is satisfied for reasons to be recorded in writing that there was compelling reasons which prevented the person from filing the appeal in time.";

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible and every endeavour shall be made to dispose of the appeal finally within one month from the date of filing the appeal, after providing the parties an opportunity of being heard."

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. GOTHI,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LVI]

MONDAY, OCTOBER 5, 2015/ASVINA 13, 1937

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5th October, 2015.

No. RPB/451-2015/Act.-3-15-E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 20th March, 2015, Phalguna, 29, 1936 (Saka)

The following Act of Parliament has received the assent of the President on the 19th March, 2015, is hereby published for general information :-

THE MOTOR VEHICLES (AMENDMENT) ACT, 2015.

AN

(Act No. 3 of 2015)

ACT

[19th March, 2015.]

further to amend the Motor Vehicles Act, 1988.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 2015.

Short title and commencement.

(2) It shall be deemed to have come into force on the 7th day of January, 2015.

59 of 1988.

2. In the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), after section 2, the following section shall be inserted, namely:—

Insertion of new section 2A.

‘2A. (1) Save as otherwise provided in the proviso to sub-section (1) of section 7 and sub-section (10) of section 9, the provisions of this Act shall apply to e-cart and e-rickshaw.

E-cart and e-rickshaw.

(2) For the purposes of this section, “e-cart or e-rickshaw” means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.’

3. In the principal Act, in section 7, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment of section 7.

“Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.”

Amendment
of section 9.

4. In the principal Act, in section 9, after sub-section (9), the following sub-section shall be inserted, namely:—

“(10) Notwithstanding anything contained in this section, the driving licence to drive e-cart or e-rickshaw shall be issued in such manner and subject to such conditions, as may be prescribed.”.

Amendment
of section 27.

5. In the principal Act, in section 27,—

(i) clause (a) shall be renumbered as clause (aa) thereof and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

“(a) specifications relating to e-cart and e-rickshaw under sub-section (2) of section 2A;”;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(ff) the manner and the conditions subject to which the driving licence may be issued under sub-section (10) of section 9;”.

Repeal and
saving.

6. (1) The Motor Vehicles (Amendment) Ordinance, 2015, is hereby repealed.

Ord. 2 of
2015.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. GOTHI,
Secretary to Government.

Government central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
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TUESDAY, OCTOBER 6, 2015/ASVINA 14, 1937

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th October, 2015.

No. RPB/444-2015/Act-5-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 23rd March, 2015, Chaitra 2, 1937 (Saka)

The following Act of Parliament has received the assent of the President on the 20th March, 2015 is hereby published for general information :-

THE INSURANCE LAWS (AMENDMENT) ACT, 2015

AN

(Act No. 5 of 2015.)

ACT

[20th March, 2015.]

further to amend the Insurance Act, 1938 and the General Insurance Business (Nationalisation) Act, 1972 and to amend the Insurance Regulatory and Development Authority Act, 1999.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Insurance Laws (Amendment) Act, 2015.
- (2) It shall be deemed to have come into force on the 26th day of December, 2014.

Short title
and
commencement.

CHAPTER II

AMENDMENTS TO THE INSURANCE ACT, 1938

- 4 of 1938 2. In this Insurance Act, 1938 (hereafter in this Chapter referred to as the Insurance Act), throughout the Act,-
- 7 of 1913 (a) for the words and figures "the Indian Companies Act, 1913", wherever they occur, the
- 18 of 2013 words and figures "the Companies Act, 1913" shall be substituted;

Substitution of
references to certain
expressions by certain
other expressions..

Amendment
of section 2.

(b) for the words and figures "the Companies Act, 1956", wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted.

1 of 1956.
18 of 2013.

3. In section 2 of the Insurance Act,—

(i) for clauses (1) and (1A), the following clauses shall be substituted, namely:—

'(1) "actuary" means an actuary as defined in clause (a) of sub-section (1) of section 2 of the Actuaries Act, 2006;

35 of 2006.

'(1A) "Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999;'

41 of 1999.

(ii) clause (5A) shall be omitted;

(iii) after clause (6B), the following clause shall be inserted, namely:—

'(6C) "health insurance business" means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, whether in-patient or out-patient travel cover and personal accident cover;'

(iv) for clause (7A), the following clause shall be substituted, namely:—

'(7A) "Indian insurance company" means any insurer, being a company which is limited by shares, and,—

(a) which is formed and registered under the Companies Act, 2013 as a public company or is converted into such a company within one year of the commencement of the Insurance Laws (Amendment) Act, 2015;

18 of 2013.

(b) in which the aggregate holdings of equity shares by foreign investors, including portfolio investors, do not exceed forty-nine per cent. of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed.

Explanation.—For the purposes of this sub-clause, the expression "control" shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;

(c) whose sole purpose is to carry on life insurance business or general insurance business or re-insurance business or health insurance business;'

(v) clause (8) shall be omitted;

(vi) in clause (8A),—

(1) for sub-clause (b), the following sub-clause shall be substituted, namely:—

"(b) having a minimum paid-up capital of rupees one hundred crore in case of life insurance business, general insurance business and health insurance business;";

(II) in sub-clause (d), after the words "general insurance business", the words "or health insurance business" shall be inserted;

(vii) for clause (9), the following clause shall be substituted, namely:—

'(9) "insurer" means—

(a) an Indian Insurance Company, or

(b) a statutory body established by an Act of Parliament to carry on insurance business; or

(c) an insurance co-operative society, or

(d) a foreign company engaged in re-insurance business through a branch established in India.

Explanation.—For the purposes of this sub-clause, the expression "foreign company" shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd's established under the Lloyd's Act, 1871 (United Kingdom) or any of its Members;

(viii) in clause (10), the words and figures "licensed under section 42" shall be omitted;

(ix) in clause (11), in sub-clause (c), for the words "annuities payable out of any fund", the words "benefit payable out of any fund" shall be substituted;

(x) clauses (12), (13) and (15) shall be omitted;

(xi) in clause (16), for the words, brackets, figures and letter "clauses (13) and (13A) of section 2 of the Indian Companies Act, 1913", the words, brackets and figures "clause (68) and clause (72) of section 2 of the Companies Act, 2013" shall be substituted;

(xii) after clause (16), the following clauses shall be inserted, namely:—

(16A) "regulations" means the regulations framed by the Insurance Regulatory and Development Authority of India established under the Insurance Regulatory and Development Authority Act, 1999;

(16B) "re-insurance" means the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium;

(16C) "Securities Appellate Tribunal" means the Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992;

(xiii) clause (17) shall be omitted.

4. After section 2CA of the Insurance Act, the following section shall be inserted, namely:—

"2CB. (1) No person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority.

(2) If any person contravenes the provision of sub-section (1), he shall be liable to a penalty which may extend to five crore rupees."

5. Section 2E of the Insurance Act shall be omitted.

6. In section 3 of the Insurance Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every application for registration shall be made in such manner and shall be accompanied by such documents as may be specified by the regulations."

(ii) in sub-section (2A), in clause (d), for the figures, letter and word "5, 31A and 32", the figures, word and letter "5 and 31A" shall be substituted;

Insertion of new section 2CB.

Properties in India not to be insured with foreign insurers except with the permission of Authority.

Omission of section 2E.

Amendment of section 3.

7 of 1913.
18 of 2013.

41 of 1999.

15 of 1992.

(iii) for sub-section (2C), the following sub-section shall be substituted, namely:—

"(2C) Any person aggrieved by the decision of the Authority refusing registration may, within thirty days from the date on which a copy of the decision is received by him, appeal to the Securities Appellate Tribunal.";

(iv) sub-section (2D) shall be omitted;

(v) for sub-sections (3), (4), (5) and (5A), the following sub-sections shall be substituted, namely:—

"(3) In the case of any insurer having joint venture with a person having its principal place of business domiciled outside India or any insurer as defined in sub-clause (d) of clause (9) of section 2, the Authority may withhold registration already made if it is satisfied that in the country in which such person has been debarred by law or practice of that country to carry on insurance business.

(4) The Authority may suspend or cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business, as the case may be,—

(a) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or

(b) if the insurer is in liquidation or is adjudged as an insolvent, or

(c) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer without the approval of the Authority, or

(d) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any rule or any regulation or order made or, any direction issued thereunder, or

(e) if the Authority has reason to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular court of law, or

(f) if the insurer carries on any business other than insurance business or any prescribed business, or

(g) if the insurer makes a default in complying with any direction issued or order made, as the case may be, by the Authority under the Insurance Regulatory and Development Authority Act, 1999, or

41 of 1999.

(h) if the insurer makes a default in complying with, or acts in contravention of, any requirement of the Companies Act, 2013 or the General Insurance Business (Nationalisation) Act, 1972 or the Foreign Exchange Management Act, 1999 or the Prevention of Money Laundering Act, 2002, or

18 of 2013.
57 of 1972.
42 of 1999.
15 of 2002.

(i) if the insurer fails to pay the annual fee required under section 3A, or

(j) if the insurer is convicted for an offence under any law for the time being in force, or

(k) if the insurer being a co-operative society set up under the relevant State laws or, as the case may be, the Multi-State Co-operative Societies Act, 2002, contravenes the provisions of law as may be applicable to the insurer.

39 of 2002.

9C. (1) The Central Government shall, by notification, establish a Trust, as a non-profit body, to be called the National Mineral Exploration Trust.

National
Mineral
Exploration
Trust.

(2) The object of the Trust shall be to use the funds accrued to the Trust for the purposes of regional and detailed exploration in such manner as may be prescribed by the Central Government.

(3) The composition and functions of the Trust shall be such as may be prescribed by the Central Government.

(4) The holder of a mining lease or a prospecting licence-cum-mining lease shall pay to the Trust, a sum equivalent to two per cent. of the royalty paid in terms of the Second Schedule, in such manner as may be prescribed by the Central Government.”

10. After section 10 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
10A, 10B,
and 10C.

“10A. (1) All applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall become ineligible.

Rights of
existing
concession
holders and
applicants.

(2) Without prejudice to sub-section (1), the following shall remain eligible on and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015:—

(a) applications received under section 11A of this Act;

(b) where before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 a reconnaissance permit or prospecting licence has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting licence followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be,—

(i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government;

(ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting licence;

(iii) has not become ineligible under the provisions of this Act; and

(iv) has not failed to apply for grant of prospecting licence or mining lease, as the case may be, within a period of three months after the expiry of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

(c) where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of a mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the said Act:

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted under clause (b) of this sub-section except with the previous approval of the Central Government.

Grant of mining lease in respect of notified minerals through auction.

10B. (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which the minerals do not vest in the Government.

(2) Where there is inadequate evidence to show the existence of mineral contents of any notified mineral in respect of any area, a State Government may, after obtaining the previous approval of the Central Government, grant a prospecting licence-cum-mining lease for the said notified mineral in such area in accordance with the procedure laid down in section 11.

(3) In areas where the existence of mineral contents of any notified mineral is established in the manner prescribed by the Central Government, the State Government shall notify such areas for grant of mining leases for such notified mineral, the terms and conditions subject to which such mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(4) For the purpose of granting a mining lease in respect of any notified mineral in such notified area, the State Government shall select, through auction by a method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

(5) The Central Government shall prescribe the terms and conditions, and procedure, subject to which the auction shall be conducted, including the bidding parameters for the selection, which may include a share in the production of the mineral, or any payment linked to the royalty payable, or any other relevant parameter, or any combination or modification of them.

(6) Without prejudice to the generality of sub-section (5), the Central Government shall, if it is of the opinion that it is necessary and expedient to do so, prescribe terms and conditions, procedure and bidding parameters in respect of categories of minerals, size and area of mineral deposits and a State or States, subject to which the auction shall be conducted:

Provided that the terms and conditions may include the reservation of any particular mine or mines for a particular end-use and subject to such condition which allow only such eligible end users to participate in the auction.

(7) The State Government shall grant a mining lease to an applicant selected in accordance with the procedure laid down in this section in respect of such notified mineral in any notified area.

Grant of non-exclusive reconnaissance permits.

10C. (1) Non-exclusive reconnaissance permits may be granted in respect of any notified mineral or non-notified mineral or a group of specified minerals, other than minerals specified in Part A or Part B of the First Schedule, subject to such terms and conditions as may be prescribed by the Central Government.

(2) The holder of such non-exclusive reconnaissance permit shall not be entitled to make any claim for the grant of any prospecting licence-cum-mining lease or a mining lease.”

11. For section 11 of the principal Act, the following section shall be substituted, namely:—

“11. (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which minerals do not vest in the Government.

(2) In areas where there is evidence to show the existence of mineral contents as required by clause (a) of sub-section (2) of section 5, the State Government shall grant a mining lease for minerals other than notified minerals following the procedure laid down in section 10B.

(3) In areas where there is inadequate evidence to show the existence of mineral contents as required under clause (a) of sub-section (2) of section 5, the State Government shall grant a prospecting licence-cum-mining lease for minerals other than notified minerals in accordance with the procedure laid down in this section.

(4) The State Government shall notify the areas in which prospecting licence-cum-mining leases shall be granted for any minerals other than notified minerals, the terms and conditions subject to which such prospecting licence-cum-mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(5) For the purpose of granting prospecting licence-cum-mining leases, the State Government shall select, through auction by method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

(6) The Central Government shall prescribe the terms and conditions, and procedure, subject to which the auction shall be conducted, including the bidding parameters for the selection, which may include a share in the production of the mineral, or any payment linked to the royalty payable, or any other relevant parameter, or any combination or modification of them.

(7) Without prejudice to the generality of sub-section (6), the Central Government shall, if it is of the opinion that it is necessary and expedient to do so, prescribe terms and conditions, procedure and bidding parameters in respect of categories of minerals, size and area of mineral deposits and a State or States, subject to which the auction shall be conducted.

(8) The State Government shall grant a prospecting licence-cum-mining lease to an applicant selected in accordance with the procedure laid down in this section.

(9) The holder of a prospecting licence-cum-mining lease shall be required to complete, within the period laid down in section 7, the prospecting operations satisfactorily as specified in the notice inviting applications.

(10) A holder of a prospecting licence-cum-mining lease, who completes the prospecting operation as laid down in sub-section (9) and establishes the existence of mineral contents in the area in conformity with such parameters as may be prescribed for this purpose by the Central Government, shall be required to apply for a mining lease for such area and shall have the right to get the mining lease and thereafter undertake mining operations in accordance with the provisions of this Act.”

12. After section 11A of the principal Act, the following sections shall be inserted, namely:—

“11B. The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of mining leases or other mineral concessions in respect of minerals specified in Part B of the First Schedule and for purposes connected therewith, and the State Government shall grant a reconnaissance permit, prospecting licence or mining lease in respect of any such mineral in accordance with such rules.

Substitution of new section for section 11.

Grant of prospecting licence-cum-mining lease through auction in respect of minerals other than notified minerals.

Insertion of new sections 11B and 11C.

Power of Central Government to make rules for regulating atomic minerals specified under Part B of First Schedule.

Power of
Central
Government
to amend
First Schedule
and Fourth
Schedule

11C. The Central Government may, by notification in the Official Gazette, amend the First Schedule and the Fourth Schedule so as to add or delete any mineral as may be specified in the notification.”.

Insertion of
new section
12A

13. After section 12 of the principal Act, the following section shall be inserted, namely:—

Transfer of
mineral
concessions

“12A. (1) The provisions of this section shall not apply to minerals specified in Part A or Part B of the First Schedule.

(2) A holder of a mining lease or a prospecting licence-cum-mining lease granted in accordance with the procedure laid down in section 10B or section 11 may, with the previous approval of the State Government, transfer his mining lease or prospecting licence-cum-mining lease, as the case may be, in such manner as may be prescribed by the Central Government, to any person eligible to hold such mining lease or prospecting licence-cum-mining lease in accordance with the provisions of this Act and the rules made thereunder.

(3) If the State Government does not convey its previous approval for transfer of such mining lease or prospecting licence-cum-mining lease, as the case may be, within a period of ninety days from the date of receiving such notice, it shall be construed that the State Government has no objection to such transfer:

Provided that the holder of the original mining lease or prospecting licence-cum-mining lease shall intimate to the State Government the consideration payable by the successor-in-interest for the transfer, including the consideration in respect of the prospecting operations already undertaken and the reports and data generated during the operations.

(4) No such transfer of a mining lease or prospecting licence-cum-mining lease, referred to in sub-section (2), shall take place if the State Government, within the notice period and for reasons to be communicated in writing, disapproves the transfer on the ground that the transferee is not eligible as per the provisions of this Act:

Provided that no such transfer of a mining lease or of a prospecting licence-cum-mining lease, shall be made in contravention of any condition subject to which the mining lease or the prospecting licence-cum-mining lease was granted.

(5) All transfers effected under this section shall be subject to the condition that the transferee has accepted all the conditions and liabilities under any law for the time being in force which the transferor was subject to in respect of such a mining lease or prospecting licence-cum-mining lease, as the case may be.

(6) The transfer of mineral concessions shall be allowed only for concessions which are granted through auction.”.

Amendment of
section 13.

14. In section 13 of the principal Act, in sub-section (2),—

(i) after clause (j), the following clause shall be inserted, namely:—

“(jj) parameters of existence of mineral contents under clause (a) of sub-section (2) of section 5;”;

(ii) in clause (qq), the word “and” occurring at the end shall be omitted;

(iii) after clause (qq), the following clauses shall be inserted, namely:—

“(qqa) the amount of payment to be made to the District Mineral Foundation under sub-sections (5) and (6) of section 9B;

Provided that the Authority may, having regard to the circumstances of any particular insurer, allow him to have the investigation made as at a date not later than two years from the date as at which the previous investigation was made:

41 of 1999.

Provided further that every insurer, on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall cause an abstract of the report of the actuary to be made in such manner as may be specified by the regulations:";

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) There shall be appended to every such abstract a statement prepared in such form and in such manner as may be specified by the regulations:

Provided that, if the investigation referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every three years.";

(iii) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) The provisions of this section relating to the life insurance business shall apply also to any such sub-class of insurance business included in the class "Miscellaneous Insurance" and the Authority may authorise such modifications and variations of regulations as may be necessary to facilitate their application to any such sub-class of insurance business:

Provided that, if the Authority is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so small as to render periodic investigation and valuation unnecessary, it may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business."

19. For section 14 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 14.

"14. (1) Every insurer, in respect of all business transacted by him, shall maintain—

Record of policies and claims.

(a) a record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policyholder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice;

(b) a record of claims, every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds thereof; and

(c) a record of policies and claims in accordance with clauses (a) and (b) may be maintained in any such form, including electronic mode, as may be specified by the regulations made under this Act.

(2) Every insurer shall, in respect of all business transacted by him, endeavour to issue policies above a specified threshold in terms of sum assured and premium in electronic form, in the manner and form to be specified by the regulations made under this Act."

Substitution of
new section for
section 15.

Submission of
returns.

20. For section 15 of the Insurance Act, the following section shall be substituted, namely:—

"15. (1) The audited accounts and statements referred to in section 11 or sub-section (5) of section 13 and the abstract and statement referred to in section 13 shall be printed, and four copies thereof shall be furnished as returns to the Authority within six months from the end of the period to which they refer.

(2) Of the four copies so furnished, one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a managing director by that managing director and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be."

Omission of
section 16.

Omission of
sections 17
and 17A.

Amendment
of section 20.

21. Section 16 of the Insurance Act shall be omitted.

22. Sections 17 and 17A of the Insurance Act shall be omitted.

23. In section 20 of the Insurance Act,

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every return furnished to the Authority or certified copy thereof shall be kept by the Authority and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of such fee as may be specified by the regulations."

(ii) in sub-section (2), the words and figures "or section 16" shall be omitted;

(iii) in sub-section (3), for the words "one rupee", the words "such fee as may be specified by the regulations" shall be substituted.

Amendment
of section 21.

24. In section 21 of the Insurance Act,—

(i) in sub-section (1), in clause (d), the words and figures "or section 16" shall be omitted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Securities Appellate Tribunal may, on the application of an insurer and after hearing the Authority, cancel any order made by the Authority under clause (d) of sub-section (1) or may direct the acceptance of such a return which the Authority has declined to accept, if the insurer satisfies the Tribunal that the action of the Authority was in the circumstances unreasonable:

Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the date when the Authority made the order or declined to accept the return."

Amendment
of section 22.

25. In section 22 of the Insurance Act,—

(i) in sub-section (1), the words, brackets, letter and figures "or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16" shall be omitted;

(ii) in sub-section (2), the words, brackets and figures "or, as the case may be, of sub-section (2) of section 16" shall be omitted.

Substitution
of new
sections for
sections 27,
27A, 27B,
27C and 27D.

26. For sections 27, 27A, 27B, 27C and 27D of the Insurance Act, the following sections shall be substituted, namely:—

Investment of
assets.

"27. (1) Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of—

(a) the amount of his liabilities to holders of life insurance policies in India on account of matured claims, and

(b) the amount required to meet the liability on policies of life insurance maturing for payment in India,

less—

(i) the amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and

(ii) any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability in the following manner, namely:—

(a) twenty-five per cent. of the said sum in Government securities, a further sum equal to not less than twenty-five per cent. of the said sum in Government securities or other approved securities; and

(b) the balance in any of the approved investments, as may be specified by the regulations subject to the limitations, conditions and restrictions specified therein.

(2) In the case of an insurer carrying on general insurance business, twenty per cent. of the assets in Government Securities, a further sum equal to not less than ten per cent. of the assets in Government Securities or other approved securities and the balance in any other investment in accordance with the regulations of the Authority and subject to such limitations, conditions and restrictions as may be specified by the Authority in this regard.

Explanation.—In this section, the term "assets" means all the assets of insurer at their carrying value but does not include any assets specifically held against any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or miscellaneous expenditure or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

(3) For the purposes of sub-sections (1) and (2), any specified assets shall, subject to such conditions, if any, as may be specified, be deemed to be assets invested or kept invested in approved investments specified by regulations.

(4) In computing the assets referred to in sub-sections (1) and (2), any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurers in India with reference to that currency, to the extent of such excess, shall not be taken into account:

Provided that nothing contained in this sub-section shall affect the operation of sub-section (2):

Provided further that the Authority may, either generally or in any particular case, direct that any investment shall, subject to such conditions as may be imposed, be taken into account, in such manner as may be specified in computing the assets referred to in sub-sections (1) and (2) and where any direction has been issued under this proviso, copies thereof shall be laid before each house of Parliament as soon as may be after it is issued.

(5) Where an insurer has accepted re-insurance in respect of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded re-insurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

(6) The Government securities and other approved securities in which assets are under sub-section (1) or sub-section (2) to be invested and kept invested shall be held by the insurer free of any encumbrance, charge, hypothecation or lien.

(7) The assets required by this section to be held invested by an insurer incorporated or domiciled outside India shall, except to the extent of any part thereof which consists of foreign assets held outside India, be held in India and all such assets shall be held in trust for the discharge of the liabilities of the nature referred to in sub-section (1) and shall be vested in trustees resident in India and approved by the Authority, and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Authority and shall define the manner in which alone the subject-matter of the trust shall be dealt with.

Explanation.—This sub-section shall apply to an insurer incorporated in India whose share capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of members domiciled elsewhere than in India.

Further
provisions
regarding
investments.

27A. (1) No insurer carrying on life insurance business shall invest or keep invested any part of his controlled fund and no insurer carrying on general business shall invest or keep invested any part of his assets otherwise than in any of the approved investments as may be specified by the regulations subject to such limitations, conditions and restrictions therein.

(2) Notwithstanding anything contained in sub-section (1) or sub-section (2) of section 27, an insurer may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his controlled fund or assets otherwise than in an approved investment, if—

(i) after such investment, the total amounts of all such investments of the insurer do not exceed fifteen per cent. of the sum referred to in sub-section (1) of section 27 or fifteen per cent. of the assets referred to in sub-section (2) as the case may be;

(ii) the investment is made, or, in the case of any investment already made, the continuance of such investment is with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors then in India, and all such investments, including investments in which any director is interested, are reported without delay to the Authority with full details of the investments and the extent of the director's interest in any such investment.

(3) An insurer shall not out of his controlled fund or assets as referred to in section 27,—

(a) invest in the shares of any one banking company; or

(b) invest in the shares or debentures of any one company,

more than the percentage specified by the regulations.

(4) An insurer shall not out of his controlled fund or assets as referred to in sub-section (2) of section 27 invest or keep invested in the shares or debentures of any private limited company.

(5) All assets forming the controlled fund or assets as referred to in sub-section (2) of section 27, not being Government securities or other approved securities in which assets are to be invested or held invested in accordance with this section, shall (except for a part thereof not exceeding one-tenth of the controlled fund or assets as referred to in sub-section (2) thereof in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan

taken for purposes of any investment), be held free of any encumbrance, charge, hypothecation or lien.

(6) If at any time the Authority considers any one or more of the investments of an insurer to be unsuitable or undesirable, the Authority may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with the direction within such time as may be specified in this behalf by the Authority.

(7) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central Act, or Act of a State legislature.

Explanation.—In this section "controlled fund" means—

(a) in the case of any insurer carrying on life insurance business—

(i) all his funds, if he carries on no other class of insurance business;

(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also.

Explanation.—For the purposes of sub-clauses (i) and (ii), the fund does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion, as the case may be, is regulated by the law in force of any country outside India or it would not be in the interest of the insurer to apply the provisions of this section;

(b) in the case of any other insurer carrying on life insurance business—

(i) all his funds in India, if he carries on no other class of insurance business;

(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also; but does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

27B. (1) All assets of an insurer carrying on general insurance business shall, subject to such conditions, if any, as may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in section 27.

Provisions regarding investments of assets of insurer carrying general insurance business.

(2) All assets shall (except for a part thereof not exceeding one-tenth of the total assets in value which may be subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies) be held free of any encumbrance, charge, hypothecation or lien.

(3) Without prejudice to the powers conferred on the Authority by sub-section (5) of section 27A nothing contained in this section shall be deemed to require any insurer to realise any investment made in conformity with the provisions of sub-section (1) of section 27 after the commencement of the Insurance (Amendment) Act, 1968, which, after the making thereof, has ceased to be an approved investment within the meaning of this section.

62 of 1968.

27C. An insurer may invest not more than five per cent. in aggregate of his controlled fund or assets as referred to in sub-section (2) of section 27 in the companies

Investment by insurer in certain cases.

belonging to the promoters, subject to such conditions as may be specified by the regulations.

Manner and
condition of
investment.

27D. (1) Without prejudice to anything contained in this section, the Authority may, in the interests of the policyholders, specify by the regulations, the time, manner and other conditions of investment of assets to be held by an insurer for the purposes of this Act.

(2) The Authority may give specific directions for the time, manner and other conditions subject to which the funds of policyholders shall be invested in the infrastructure and social sector as may be specified by the regulations and such regulations shall apply uniformly to all the insurers carrying on the business of life insurance, general insurance, or health insurance or re-insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999.

41 of 1999.

(3) The Authority may, after taking into account the nature of business and to protect the interests of the policyholders, issue to an insurer the directions relating to the time, manner and other conditions of investment of assets to be held by him:

Provided that no direction under this sub-section shall be issued unless the insurer concerned has been given a reasonable opportunity of being heard.

Prohibition
for
investment
of funds
outside India.

27E. No insurer shall directly or indirectly invest outside India the funds of the policyholders.

Substitution of
new section
for section
28, section
28A and
section 28B.

27. For section 28, section 28A and section 28B of the Insurance Act, the following section shall be substituted, namely:—

Statement
and return of
investment of
assets.

"28. Every insurer shall submit to the Authority returns giving details of investments made, in such form, time and manner including its authentication as may be specified by the regulations."

Substitution
of new
section for
section 29.

28. For section 29 of the Insurance Act, the following section shall be substituted, namely:—

Prohibition of
loans.

"29. (1) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life insurance policies issued by him within their surrender value, to any director, manager, actuary, auditor or officer of the insurer, if a company or to any other company or firm in which any such director, manager, actuary or officer holds the position of a director, manager, actuary, officer or partner:

Provided that nothing contained in this sub-section shall apply to such loans, made by an insurer to a banking company, as may be specified by the Authority:

Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loan or advance is a subsidiary company if the previous approval of the Authority is obtained for such loan or advance.

(2) The provisions of section 185 of the Companies Act, 2013 shall not apply to a loan granted to a director of an insurer being a company, if the loan is one granted on the security of a policy on which the insurer bears the risk and the policy was issued to the director on his own life, and the loan is within the surrender value of the policy.

18 of 2013.

(3) Subject to the provisions of sub-section (1), no insurer shall grant—

(a) any loans or temporary advances either on hypothecation of property or on personal security or otherwise, except such loans as may be specified by the regulations including the loans sanctioned as part of their salary package to the full-time employees of the insurer as per the scheme duly approved by its Board of Directors;

(b) temporary advances to any insurance agent to facilitate the carrying out of his functions as such except in cases where such advances do not exceed in the aggregate the renewal commission earned by him during the immediately preceding year.

(4) Where any event occurs giving rise to circumstances, the existence of which at the time of grant of any subsisting loan or advance would have made such grant a contravention of this section, such loan or advance shall, notwithstanding anything in any contract to the contrary, be repaid within three months from the occurrence of such event.

(5) In case of default in complying with the provisions of sub-section (4), the director, manager, auditor, actuary, officer or insurance agent concerned shall, without prejudice to any other penalty which he may incur, cease to hold office under, or to act for, the insurer granting the loan on the expiry of three months."

29. For section 30 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 30.

"30. If by reason of a contravention of any of the provisions of section 27, 27A, 27B, 27C, 27D or section 29, any loss is sustained by the insurer or by the policyholders, every director, manager or officer who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be jointly and severally liable to make good the amount of such loss."

Liability of directors, etc., for loss due to contravention of section 27, 27A, 27B, 27C, 27D or section 29.

30. In section 31 of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 31.

"(1) None of the assets in India of any insurer shall, except in so far as assets are required to be vested in trustees under sub-section (7) of section 27, be kept otherwise than in the name of a public officer approved by the Authority, or in the corporate name of the undertaking, if a company or an insurance co-operative society, as the case may be."

31. In section 31A of the Insurance Act,—

Amendment of section 31A.

(a) in sub-section (1), in clause (c)—

(i) for sub-clauses (i) and (ii) to the proviso, the following sub-clause shall be substituted, namely:—

"(i) the payment of commission to an insurance agent, in respect of insurance business procured by or through him;"

(ii) clause (iii) to the proviso shall be omitted;

(b) in sub-section (3), for the words, figures and letter "or in section 86B of the Indian Companies Act, 1913", the words "or in any other law for the time being in force" shall be substituted.

7 of 1913.

32. For section 31B of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 31B.

"31B. No insurer shall in respect of insurance business transacted by him, shall pay to any person by way of remuneration, whether by way of commission or otherwise in excess of such sum as may be specified by the regulations."

Power to restrict payment of excessive remuneration.

Omission of section 32.

33. Section 32 of the Insurance Act shall be omitted.

Amendment of section 32A.

34. In section 32A of the Insurance Act,—

(i) in sub-section (1), the words, brackets, letter and figures "specified in sub-clause (b) of clause (9) of section 2 and," shall be omitted;

(ii) sub-sections (2) and (3) shall be omitted.

Amendment of section 32B.

35. In section 32B of the Insurance Act, for the words "rural or social sector", the words "rural and social sectors" shall be substituted.

Insertion of new section 32D.

36. After section 32C of the Insurance Act, the following section shall be inserted, namely:—

Obligation of insurer in respect of insurance business in third party risks of motor vehicles.

"32D. Every insurer carrying on general insurance business shall, after the commencement of the Insurance Laws (Amendment) Act, 2015, underwrite such minimum percentage of insurance business in third party risks of motor vehicles as may be specified by the regulations:

Provided that the Authority may, by regulations, exempt any insurer who is primarily engaged in the business of health, re-insurance, agriculture, export credit guarantee, from the application of this section."

Substitution of new section for section 33.

37. For section 33 of the Insurance Act, the following section shall be substituted, namely:—

Power of investigation and inspection by Authority.

"33. (1) The Authority may, at any time, if it considers expedient to do so by order in writing, direct any person (herein referred to as "Investigating Officer") specified in the order to investigate the affairs of any insurer or intermediary or insurance intermediary, as the case may be, and to report to the Authority on any investigation made by such Investigating Officer:

Provided that the Investigating Officer may, wherever necessary, employ any auditor or actuary or both for the purpose of assisting him in any investigation under this section.

(2) Notwithstanding anything to the contrary contained in section 210 of the Companies Act, 2013, the Investigating Officer may, at any time, and shall, on being directed so to do by the Authority, cause an inspection to be made by one or more of his officers of the books of account of any insurer or intermediary or insurance intermediary, as the case may be, and the Investigating Officer shall supply to the insurer or intermediary or insurance intermediary, as the case may be, a copy of the report on such inspection.

18 of 2013.

(3) It shall be the duty of every manager, managing director or other officer of the insurer including a service provider, contractor of an insurer where services are outsourced by the insurer, or intermediary or insurance intermediary, as the case may be, to produce before the Investigating Officer directed to make the investigation under sub-section (1), or inspection under sub-section (2), all such books of account, registers, other documents and the database in his custody or power and to furnish him with any statement and information relating to the affairs of the insurer or intermediary or insurance intermediary, as the case may be, as the Investigating Officer may require of him within such time as the said Investigating Officer may specify.

(4) Any Investigating Officer, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath, any manager, managing director or other officer of the insurer including a service provider or contractor where the services are outsourced by the insurer or intermediary or insurance intermediary, as the case may be, in relation to his business.

(5) The Investigating Officer shall, if he has been directed by the Authority to cause an inspection to be made, make a report to the Authority on such inspection.

(6) On receipt of any report under sub-section (1) or sub-section (5), the Authority may, after giving such opportunity to the insurer or intermediary or insurance intermediary, as the case may be, to make a representation in connection with the report as, in the opinion of the Authority, seems reasonable, by order in writing, —

(a) require the insurer, to take such action in respect of any matter arising out of the report as the Authority may think fit; or

(b) cancel the registration of the insurer or intermediary or insurance intermediary, as the case may be; or

(c) direct any person to apply to the court for the winding up of the insurer or intermediary or insurance intermediary, as the case may be, if it is a company, whether the registration of the insurer or intermediary or insurance intermediary, as the case may be, has been cancelled under clause (b) or not.

(7) The Authority may by the regulations made by it specify the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by insurers or intermediary or insurance intermediary, as the case may be, in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Officer to discharge satisfactorily his functions under this section.

Explanation.—For the purposes of this section, the expression "insurer" shall include in the case of an insurer incorporated in India—

(a) all its subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and

(b) all its branches whether situated in India or outside India.

(8) Any insurer or intermediary or insurance intermediary aggrieved by any order made under this section may prefer an appeal to the Securities Appellate Tribunal.

(9) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer or intermediary or insurance intermediary, as the case may be, shall have priority over the debts due from the insurer and shall be recoverable as an arrear of land revenue.

38. In section 34B of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) If any person in respect of whom an order is made by the Authority under sub-section (1) or under the proviso to sub-section (2), contravenes the provisions of this section, he shall be liable to a penalty of one lakh rupees for each day during which such contravention continues or one crore rupees, whichever is less."

Amendment
of section
34B.

39. In section 34C of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If the Authority is of opinion that in the public interest or in the interest of an insurer or his policyholders it is necessary so to do, it may, from time to time, by order in writing, appoint, in consultation with the Central Government with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the insurer:

Amendment
of section
34C.

Provided that the number of additional directors so appointed shall not, at any time, exceed five or one-third of the maximum strength fixed for the Board by the articles of association of the insurer, whichever is less."

Omission of
section 34G.

40. Section 34G of the Insurance Act shall be omitted.

Amendment
of section
34H.

41. In section 34H of the Insurance Act,—

(i) in sub-section (1), for the words "an officer authorised by the Authority", the words "a Deputy Director or an equivalent officer" shall be substituted;

(ii) in sub-sections (7) and (8), for the words "Central Government", the words "Securities Appellate Tribunal" shall be substituted.

Amendment
of section 35.

42. In section 35 of the Insurance Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in any other law for the time being in force, no insurance business of an insurer shall be transferred to or amalgamated with the insurance business of any other insurer except in accordance with a scheme prepared under this section and approved by the Authority.";

(ii) in sub-section (3), for clauses (b) and (c), the following clauses shall be substituted, namely:—

"(b) balance sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in such forms as may be specified by the regulations;

(c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the regulations specified in this regard."

Substitution of
new section
for section
36.

Sanction of
amalgamation
and transfer
by Authority.

43. For section 36 of the Insurance Act, the following section shall be substituted, namely:—

"36. When any application under sub-section (3) of section 35 is made to the Authority, the Authority shall cause, a notice of the application to be given to the holders of any kind of policy of insurer concerned alongwith statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and, after hearing the directors and considering the objections of the policyholders and any other persons whom it considers entitled to be heard, may approve the arrangement, and shall make such consequential orders as are necessary to give effect to the arrangement."

Amendment
of section
37A.

44. In section 37A of the Insurance Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

"(4) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modification or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may notify in this behalf in the Official Gazette:

Provided that different dates may be specified for different provisions of the scheme.

(4A) Every policyholder or shareholder or member of each of the insurers, before amalgamation, shall have the same interest in, or rights against the insurer resulting from amalgamation as he had in the company of which he was originally a policyholder or shareholder or member:

Provided that where the interests or rights of any shareholder or member are less than his interest in, or rights against, the original insurer, he shall be entitled to compensation, which shall be assessed by the Authority in such manner as may be specified by the regulations.

(4B) The compensation so assessed shall be paid to the shareholder or member by the insurance company resulting from such amalgamation.

(4C) Any member or shareholder aggrieved by the assessment of compensation made by the Authority under sub-section (4A) may within thirty days from the publication of such assessment prefer an appeal to the Securities Appellate Tribunal."

45. For sections 38, 39 and 40 of the Insurance Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 38,
39 and 40.

"38. (1) A transfer or assignment of a policy of insurance, wholly or in part, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment and the reasons thereof, the antecedents of the assignee and the terms on which the assignment is made.

Assignment
and transfer
of insurance
policies.

(2) An insurer may, accept the transfer or assignment, or decline to act upon any endorsement made under sub-section (1), where it has sufficient reason to believe that such transfer or assignment is not *bona fide* or is not in the interest of the policyholder or in public interest or is for the purpose of trading of insurance policy.

(3) The insurer shall, before refusing to act upon the endorsement, record in writing the reasons for such refusal and communicate the same to the policyholder not later than thirty days from the date of the policyholder giving notice of such transfer or assignment.

(4) Any person aggrieved by the decision of an insurer to decline to act upon such transfer or assignment may within a period of thirty days from the date of receipt of the communication from the insurer containing reasons for such refusal, prefer a claim to the Authority.

(5) Subject to the provisions in sub-section (2), the transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but except, where the transfer or assignment is in favour of the insurer, shall not be operative as against an insurer, and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment and either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents have been delivered to the insurer:

Provided that where the insurer maintains one or more places of business in India, such notice shall be delivered only at the place where the policy is being serviced.

(6) The date on which the notice referred to in sub-section (5) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (5) are delivered:

Provided that if any dispute as to priority of payment arises as between assignees, the dispute shall be referred to the Authority.

(7) Upon the receipt of the notice referred to in sub-section (5), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of such fee as may be specified by the regulations, grant a written acknowledgement of the receipt of such notice; and any such acknowledgement shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgement relates.

(8) Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (5), recognise the transferee or assignee named in the notice as the absolute transferee or assignee entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy, obtain a loan under the policy or surrender the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

Explanation.—Except where the endorsement referred to in sub-section (1) expressly indicates that the assignment or transfer is conditional in terms of sub-section (10) hereunder, every assignment or transfer shall be deemed to be an absolute assignment or transfer and the assignee or transferee, as the case may be, shall be deemed to be the absolute assignee or transferee respectively.

(9) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of the Insurance Laws (Amendment) Act, 2015 shall not be affected by the provisions of this section.

(10) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made upon the condition that—

(a) the proceeds under the policy shall become payable to the policyholder or the nominee or nominees in the event of either the assignee or transferee predeceasing the insured; or

(b) the insured surviving the term of the policy, shall be valid:

Provided that a conditional assignee shall not be entitled to obtain a loan on the policy or surrender a policy.

(11) In the case of the partial assignment or transfer of a policy of insurance under sub-section (1), the liability of the insurer shall be limited to the amount secured by partial assignment or transfer and such policyholder shall not be entitled to further assign or transfer the residual amount payable under the same policy.

Nomination by
policyholder.

39. (1) The holder of a policy of life insurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death:

Provided that, where any nominee is a minor, it shall be lawful for the policyholder to appoint any person in the manner laid down by the insurer, to receive the money secured by the policy in the event of his death during the minority of the nominee.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be, but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy or registered in records of the insurer.

(3) The insurer shall furnish to the policyholder a written acknowledgement of having registered a nomination or a cancellation or change thereof, and may charge such fee as may be specified by regulations for registering such cancellation or change.

(4) A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination:

Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its reassignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy:

Provided further that the transfer or assignment of a policy, whether wholly or in part, in consideration of a loan advanced by the transferee or assignee to the policyholder, shall not cancel the nomination but shall affect the rights of the nominee only to the extent of the interest of the transferee or assignee, as the case may be, in the policy:

Provided also that the nomination, which has been automatically cancelled consequent upon the transfer or assignment, the same nomination shall stand automatically revived when the policy is reassigned by the assignee or retransferred by the transferee in favour of the policyholder on repayment of loan other than on a security of policy to the insurer.

(5) Where the policy matures for payment during the lifetime of the person whose life is insured or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policyholder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(6) Where the nominee or if there are more nominees than one, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

(7) Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to him or them under sub-section (6) unless it is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

(8) Subject as aforesaid, where the nominee, or if there are more nominees than one, a nominee or nominees, to whom sub-section (7) applies, die after the person whose life is insured but before the amount secured by the policy is paid, the amount secured by the policy, or so much of the amount secured by the policy as represents the share of the nominee or nominees so dying (as the case may be), shall be payable to the heirs or legal representatives of the nominee or nominees or the holder of a succession certificate, as the case may be, and they shall be beneficially entitled to such amount.

(9) Nothing in sub-sections (7) and (8) shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of life insurance.

(10) The provisions of sub-sections (7) and (8) shall apply to all policies of life insurance maturing for payment after the commencement of the Insurance Laws (Amendment) Act, 2015.

(11) Where a policyholder dies after the maturity of the policy but the proceeds and benefit of his policy has not been made to him because of his death, in such a case, his nominee shall be entitled to the proceeds and benefit of his policy.

(12) The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874, applies or has at any time applied:

Provided that where a nomination made whether before or after the commencement of the Insurance Laws (Amendment) Act, 2015, in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy.

Prohibition of payment by way of commission or otherwise for procuring business.

40. (1) No person shall, pay or contract to pay any remuneration or reward, whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent or an intermediary or insurance intermediary in such manner as may be specified by the regulations.

(2) No insurance agent or intermediary or insurance intermediary shall receive or contract to receive commission or remuneration in any form in respect of policies issued in India, by an insurer in any form in respect of policies issued in India, by an insurer except in accordance with the regulations specified in this regard:

Provided that the Authority, while making regulations under sub-sections (1) and (2), shall take into consideration the nature and tenure of the policy and in particular the interest of the agents and other intermediaries concerned.

(3) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-sections or the regulations framed in this regard, by an insurer, any insurance agent or intermediary or insurance intermediary who contravenes the said provisions shall be liable to a penalty which may extend to one lakh rupees."

Omission of section 40A.

46. Section 40A of the Insurance Act shall be omitted.

Substitution of new sections for sections 40B and 40C.

47. For sections 40B and 40C of the Insurance Act, the following sections shall be substituted, namely:—

Limitation of expenses of management in life insurance business.

"40B. No insurer shall, in respect of insurance business transacted by him in India, spend as expenses of management in any financial year any amount exceeding the amount as may be specified by the regulations made under this Act;

Limitation of expenses of management in general, health insurance and re-insurance business.

40C. Every insurer transacting insurance business in India shall furnish to the Authority, the details of expenses of management in such manner and form as may be specified by the regulations made under this Act."

Amendment of section 41.

48. In section 41 of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Any person making default in complying with the provisions of this section shall be liable for a penalty which may extend to ten lakh rupees."

Substitution of new section for section 42.

49. For section 42 of the Insurance Act, the following section shall be substituted, namely:—

Appointment of insurance agents.

"42. (1) An insurer may appoint any person to act as insurance agent for the purpose of soliciting and procuring insurance business:

Provided that such person does not suffer from any of the disqualifications mentioned in sub-section (3).

(2) No person shall act as an insurance agent for more than one life insurer, one general insurer, one health insurer and one of each of the other mono-line insurers:

Provided that the Authority shall, while framing regulations, ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers for whom he may be an agent.

(3) The disqualifications referred to in the proviso to sub-section (1) shall be the following:—

(a) that the person is a minor;

(b) that he is found to be of unsound mind by a court of competent jurisdiction;

(c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a court of competent jurisdiction:

Provided that where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;

(d) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurer or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or insured;

(e) that in the case of an individual, who does not possess the requisite qualifications or practical training or passed the examination, as may be specified by the regulations;

(f) that in the case of a company or firm making, a director or a partner or one or more of its officers or other employees so designated by it and in the case of any other person the chief executive, by whatever name called, or one or more of his employees designated by him, do not possess the requisite qualifications or practical training and have not passed such an examination as required under clauses (e) and (g);

(g) that he has not passed such examination as may be specified by the regulations;

(h) that he has violated the code of conduct as may be specified by the regulations.

(4) Any person who acts as an insurance agent in contravention of the provision of this Act, shall be liable to a penalty which may extend to ten thousand rupees and any insurer or any person acting on behalf of an insurer, who appoints any person as an insurance agent not permitted to act as such or transacts any insurance business in India through any such person shall be liable to penalty which may extend to one crore rupees.

(5) The insurer shall be responsible for all the acts and omissions of its agents including violation of code of conduct specified under clause (h) of sub-section (3) and liable to a penalty which may extend to one crore rupees."

50. For sections 42A, 42B and 42C of the Insurance Act, the following sections shall be substituted, namely:—

'42A. (1) No insurer shall, on or after the commencement of the Insurance Laws (Amendment) Act, 2015, appoint any principal agent, chief agent, and special agent and transact any insurance business in India through them.

(2) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance policy through multilevel marketing scheme.

(3) The Authority may, through an officer authorised in this behalf, make a complaint to the appropriate police authorities against the entity or persons involved in the multilevel marketing scheme.

Substitution of new section for sections 42A, 42B and 42C.

Prohibition of insurance business through principal agent, special agent and multilevel marketing.

Explanation.—For the purpose of this section "multilevel marketing scheme" means any scheme or programme or arrangement or plan (by whatever name called) for the purpose of soliciting and procuring insurance business through persons not authorised for the said purpose with or without consideration of whole or part of commission or remuneration earned through such solicitation and procurement and includes enrolment of persons into a multilevel chain for the said purpose either directly or indirectly.

Amendment
of section
42D.

51. In section 42D of the Insurance Act,—

(i) for the words "licence" and "licence issued", wherever they occur, the words "registration" and "registration made", shall respectively be substituted;

(ii) in sub-section (1), in clause (a) of the proviso, for the word, brackets and figure "sub-section (4)", the word, brackets and figure "sub-section (3)" shall be substituted;

(iii) in sub-section (3),—

(a) after the words "directors or partners", the words "or one or more of its officers or other employees so designated by it and in the case of any other person, the chief executive by whatever name called, or one or more of his employees designated by him" shall be inserted;

(b) for the words, brackets, letters and figures "in clauses (b), (c), (d), (e) and (f) of sub-section (4) of section 42", the words, brackets, letters and figures "in clauses (b), (c), (d), (e) and (g) of sub-section (3) of section 42" shall be substituted;

(iv) for sub-sections (8) and (9), the following sub-sections, shall be substituted, namely:—

"(8) Any person who acts as an intermediary or an insurance intermediary without being registered under this section to act as such, shall be liable to a penalty which may extend to ten lakh rupees and any person who appoints as an intermediary or an insurance intermediary or any person not registered to act as such or transacts any insurance business in India through any such person, shall be liable to a penalty which may extend to one crore rupees.

(9) Where the person contravening sub-section (8) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be liable to a penalty which may extend to ten lakh rupees."

52. For section 42E of the Insurance Act, the following section shall be substituted, namely:—

"42E. Without prejudice to the provisions contained in this Act, the Authority may, by regulations made in this behalf, specify the requirements of capital, form of business and other conditions, to act as an intermediary or an insurance intermediary."

53. For section 43 of the Insurance Act, the following section shall be substituted, namely:—

"43. (1) Every insurer and every person who, acting on behalf of an insurer employs insurance agents shall maintain a record showing the name and address of every insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.

(2) The record prepared by the insurer under sub-section (1), shall be maintained as long as the insurance agent is in service and for a period of five years after the cessation of appointment."

Substitution
of new
section for
section 42E.

Condition for
intermediary
or insurance
intermediary.

Substitution
of new
section for
section 43.

Record of
insurance
agents.

54. Section 44 of the Insurance Act shall be omitted.

Omission of section 44.

55. For sections 44A and 45 of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 44A and 45.

'44A. For the purposes of ensuring compliance with the provisions of sections 40, 40B and 40C, the Authority may, by notice—

Power to call for information.

(a) require from an insurer such information, certified if so required by an auditor or actuary, as it may consider necessary;

(b) require an insurer to submit for its examination at the principal place of business of the insurer in India, any books of account, register or other document, or to supply any statement which may be specified in the notice;

(c) examine any officer of an insurer on oath, in relation to any such information, book, register, document or statement and the insurer, shall comply with any such requirement within such time as may be specified in the notice.

45. (1) No policy of life insurance shall be called in question on any ground whatsoever after the expiry of three years from the date of the policy, *i.e.*, from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later.

Policy not be called in question on ground of misstatement after three years.

(2) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground of fraud:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision is based.

Explanation I.—For the purposes of this sub-section, the expression "fraud" means any of the following acts committed by the insured or by his agent, with intent to deceive the insurer or to induce the insurer to issue a life insurance policy:—

(a) the suggestion, as a fact of that which is not true and which the insured does not believe to be true;

(b) the active concealment of a fact by the insured having knowledge or belief of the fact;

(c) any other act fitted to deceive; and

(d) any such act or omission as the law specially declares to be fraudulent.

Explanation II.—Mere silence as to facts likely to affect the assessment of the risk by the insurer is not fraud, unless the circumstances of the case are such that regard being had to them, it is the duty of the insured or his agent keeping silence, to speak, or unless his silence is, in itself, equivalent to speak.

(3) Notwithstanding anything contained in sub-section (2), no insurer shall repudiate a life insurance policy on the ground of fraud if the insured can prove that the misstatement of or suppression of a material fact was true to the best of his knowledge and belief or that there was no deliberate intention to suppress the fact or that such misstatement of or suppression of a material fact are within the knowledge of the insurer:

Provided that in case of fraud, the onus of disproving lies upon the beneficiaries, in case the policyholder is not alive.

Explanation.—A person who solicits and negotiates a contract of insurance shall be deemed for the purpose of the formation of the contract, to be the agent of the insurer.

(4) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground that any statement of or suppression of a fact material to the expectancy of the life of the insured was incorrectly made in the proposal or other document on the basis of which the policy was issued or revived or rider issued:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision to repudiate the policy of life insurance is based:

Provided further that in case of repudiation of the policy on the ground of misstatement or suppression of a material fact, and not on the ground of fraud, the premiums collected on the policy till the date of repudiation shall be paid to the insured or the legal representatives or nominees or assignees of the insured within a period of ninety days from the date of such repudiation.

Explanation.—For the purposes of this sub-section, the misstatement of or suppression of fact shall not be considered material unless it has a direct bearing on the risk undertaken by the insurer, the onus is on the insurer to show that had the insurer been aware of the said fact no life insurance policy would have been issued to the insured.

(5) Nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.

56. Sections 47A and 48 of the Insurance Act shall be omitted.

57. For section 48A of the Insurance Act, the following section shall be substituted, namely:—

"48A. No insurance agent or intermediary or insurance intermediary shall be eligible to be or remain a director in insurance company:

Provided that any director holding office at the commencement of the Insurance Laws (Amendment) Act, 2015 shall not become ineligible to remain a director by reason of this section until the expiry of six months from the date of commencement of the said Act:

Provided further that the Authority may permit an agent or intermediary or insurance intermediary to be on the Board of an insurance company subject to such conditions or restrictions as it may impose to protect the interest of policyholders or to avoid conflict of interest."

58. In section 49 of the Insurance Act, in sub-section (1),—

(i) the words, brackets, letters and figures "being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2" shall be omitted;

(ii) the words and figures "or to the Central Government under section 11 of the Indian Life Insurance Companies Act, 1912" shall be omitted.

Omission of sections 47A and 48.

Substitution of new section for section 48A.

Insurance agent or intermediary or insurance intermediary not to be director in insurance company.

Amendment of section 49.

59. For sections 52 and 52A of the Insurance Act, the following sections shall be substituted, namely:—

"52. No insurer shall commence any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the result of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policyholder depend wholly or partly on the number of policies becoming claims within certain time-limits:

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise.

52A. (1) If at any time the Authority has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to be prejudicial to the interests of holders of life insurance policies, it may, after giving such opportunity to the insurer to be heard appoint an Administrator to manage the affairs of the insurer under the direction and control of the Authority.

(2) The Administrator shall receive such remuneration as the Authority may direct and the Authority may at any time cancel the appointment and appoint some other person as Administrator."

60. In section 52BB of the Insurance Act,—

(a) in sub-section (2), for the words "the Central Government and the Central Government", the words "the Securities Appellate Tribunal and the Securities Appellate Tribunal" shall be substituted;

(b) in sub-section (3), for the words "Central Government", the words "Securities Appellate Tribunal" shall be substituted;

(c) in sub-section (10), in clause (a), the words "or the Central Government" shall be omitted.

61. For section 52D of the Insurance Act, the following section shall be substituted, namely:—

"52D. If at any time, it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled or that, for any reason, it is undesirable that the order of appointment should remain in force, the Authority may cancel the order and thereupon the Administrator shall be divested of the management of the insurance business which shall, unless otherwise directed by the Authority, again vest in the person in whom it was vested immediately prior to the appointment of the Administrator or any other person appointed by the insurer in this behalf."

62. In section 52E of the Insurance Act, for the words "Central Government", the word "Authority" shall be substituted.

63. In section 52F of the Insurance Act, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty of rupees ten thousand each day during which such failure continues or rupees ten lakh, whichever is less" shall be substituted.

64. In section 52G of the Insurance Act, in sub-section (2), the words "Central Government or" shall be omitted.

Substitution of new sections for sections 52 and 52A.

Prohibition of business on dividing principle.

When Administrator for management of insurance business may be appointed.

Amendment of section 52BB.

Substitution of new section for section 52D.

Termination of appointment of Administrator.

Amendment of section 52E.

Amendment of section 52F.

Amendment of section 52G.

Omission of sections 52H, 52-I, 52J, 52K, 52L, 52M and 52N.

65. Sections 52H, 52-I, 52J, 52K, 52L, 52M and 52N of the Insurance Act shall be omitted.

Amendment of section 53.

66. In section 53 of the Insurance Act,—

— (a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purpose of sections 53 to 61A, "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 408 of the Companies Act, 2013.;

18 of 2013.

(b) in sub-section (2), in clause (b), sub-clause (i), shall be omitted.

Amendment of section 58.

67. In section 58 of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) An order of the Tribunal confirming a scheme under this section whereby the memorandum of a company is altered with respect to its objects shall as respects the alteration have effect as if it were an order confirmed under section 4 of the Companies Act, 2013, and the provisions of sections 7 and 17 of that Act shall apply accordingly."

18 of 2013.

Omission of section 59.

68. Section 59 of the Insurance Act shall be omitted.

Amendment of heading.

69. In PART IIA of the Insurance Act, for the heading "Insurance Association of India, Councils of The Association and Committees Thereof" the following heading shall be substituted, namely:—

"Life Insurance Council and General Insurance Council and Committees Thereof."

Omission of sections 64A and 64B.

70. Sections 64A and 64B of the Insurance Act shall be omitted.

Substitution of new sections for sections 64C and 64D.

71. For sections 64C and 64D of the Insurance Act the following sections shall be substituted, namely:—

Councils of Life Insurance and General Insurance.

"64C. On and from the date of commencement of this Act,—

(a) the existing Life Insurance Council, a representative body of the insurers, who carry on the life insurance business in India; and

(b) the existing General Insurance Council, a representative body of insurers, who carry on general, health insurance business and re-insurance in India,

shall be deemed to have been constituted as the respective Councils under this Act.

Authorisation to represent in Councils.

64D. It shall be lawful for any member of the Life Insurance Council or the General Insurance Council to authorise any of its officer to act as the representative of such member at any meeting of the Council concerned."

72. For section 64F of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 64F.

"64F. (1) The Executive Committee of the Life Insurance Council shall consist of the following persons, namely:—

Executive Committees of the Life Insurance Council and the General Insurance Council.

(a) four representatives of members of the Life Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;

(b) an eminent person not connected with insurance business, nominated by the Authority;

(c) three persons to represent insurance agents, intermediaries and policyholders respectively as may be nominated by the Authority;

(d) one representative each from self-help groups and Insurance Co-operative Societies:

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the Life Insurance Council.

(2) The Executive Committee of the General Insurance Council shall consist of the following persons, namely:—

(a) four representatives of members of the General Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;

(b) an eminent person not connected with insurance business, nominated by the Authority; and

(c) four persons to represent insurance agents, third party administrators, surveyors and loss assessors and policyholders respectively as may be nominated by the Authority:

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the General Insurance Council.

(3) If anybody of persons specified in sub-sections (1) and (2) fails to elect any of the members of the Executive Committees of the Life Insurance Council or the General Insurance Council, the Authority may nominate any person to fill the vacancy, and any person so nominated shall be deemed to be a member of the Executive Committee of the Life Insurance Council or the General Insurance Council, as the case may be, as if he had been duly elected thereto.

(4) Each of the said Executive Committees may make bye-laws for the transaction of any business at any meeting of the said Committee.

(5) The Life Insurance Council or the General Insurance Council may form such other committees consisting of such persons as it may think fit to discharge such functions as may be delegated thereto.

(6) The Secretary of the Executive Committee of the Life Insurance Council and of the Executive Committee of the General Insurance Council shall in each case be appointed by the Executive Committee concerned:

Provided that each Secretary appointed by the Executive Committee concerned shall exercise all such powers and do all such acts as may be authorised in this behalf by the Executive Committee concerned."

73. In section 64G of the Insurance Act, in sub-section (2), for the words "by nomination by the Authority", the words "in such manner as may be laid down in the bye-laws of the Council concerned" shall be substituted.

Amendment of section 64G.

Omission of
section 64-I.

74. Section 64-I of the Insurance Act shall be omitted.

Amendment
of section
64J.

75. In section 64J of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the Life Insurance Council may collect such fees as may be laid down in the bye-laws made by the Council from the insurers carrying on life insurance business."

Amendment
of section
64L.

76. In section 64L of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the General Insurance Council may collect such fees as may be laid down in the bye-laws made by the Council from the insurers carrying on general insurance business."

Amendment
of section
64N.

77. In section 64N of the Insurance Act, for the words "the Central Government may prescribe", the words "the Authority may specify" shall be substituted.

Amendment
of section
64R.

78. In section 64R of the Insurance Act, in sub-section (1),—

(a) for clause (c), the following clause shall be substituted, namely:—

"(c) keep and maintain up-to-date, a copy of list of all insurers who are members of the either Council;";

(b) in clause (d), for the words "with the previous approval of the Authority make regulations for", the words "make bye-laws for" shall be substituted.

Omission of
sections 64S
and 64T.

79. Sections 64S and 64T of the Insurance Act shall be omitted.

Omission of
sections 64U,
64UA, 64UB,
64UC, 64UD,
64UE, 64UF,
64UG, 64UH,
64U-I, 64UJ,
64UK and
64UL.

80. Sections 64U, 64UA, 64UB, 64UC, 64UD, 64UE, 64UF, 64UG, 64UH, 64U-I, 64UJ, 64UK and 64UL of the Insurance Act shall be omitted.

Insertion of
new section
64ULA.

81. After section 64UL of the Insurance Act, the following section shall be inserted, namely:—

Transitional
provisions.

"64ULA. (1) Notwithstanding anything contained in this Part, until the rates, advantage and terms and conditions laid down by the Advisory Committee under section 64UC are de-notified by the Authority with effect from such date as the Authority may by notification in the Official Gazette determine, and the rates, advantages and terms and conditions are decided by the insurer concerned, the rates, advantages and terms and conditions notified by the Advisory Committee shall continue to be in force and shall always be deemed to have been in force and any such rates, advantages and terms and conditions shall be binding on all the insurers.

(2) The Authority shall, in consultation with the Central Government, prepare a scheme for the existing employees of the Tariff Advisory Committee on its dissolution, keeping in view the interests of such employees on such terms and conditions as it may, by order, determine."

82. For section 64UM of the Insurance Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section
64UM.

Surveyors or
loss assessors.

64UM. (1) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2015, unless he—

(a) possesses such academic qualifications as may be specified by the regulations made under this Act; and

(b) is a member of a professional body of surveyors and loss assessors, namely, the Indian Institute of Insurance Surveyors and Loss Assessors:

Provided that in the case of a firm or company, all the partners or directors or other persons, who may be called upon to make a survey or assess a loss reported, as the case may be, shall fulfil the requirements of clauses (a) and (b).

(2) Every surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and other professional requirements, as may be specified by the regulations made under the Act.

(3) Notwithstanding anything contained in the foregoing provisions, a class or class of persons acting as a licensed surveyor or loss assessor prior to the commencement of the Insurance Laws (Amendment) Act, 2015 shall continue to act as such for such period as may be specified by the regulations made under this Act:

Provided that the surveyor or loss assessor shall, within the period as may be notified by the Authority, satisfy the requirements of clause (a) and clause (b) of sub-section (1), failing which, the surveyor or loss assessor shall be automatically disqualified to act as a surveyor or loss assessor.

(4) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding an amount specified in the regulations by the Authority in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2015, shall, unless otherwise directed by the Authority, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor"):

Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor.

(5) The Authority may, at any time, in respect of any claim of the nature referred to in sub-section (4), call for an independent report from any other approved surveyor or loss assessor specified by him and such surveyor or loss assessor shall furnish such report to the Authority within such time as may be specified by the Authority or if no time limit has been specified by him within a reasonable time and the cost of, or incidental to, such report shall be borne by the insurer.

(6) The Authority may, on receipt of a report referred to in sub-section (5), issue such directions as it may consider necessary with regard to the settlement of the claim including any direction to settle a claim at a figure less than, or more than, that at which it is proposed to settle it or it was settled and the insurer shall be bound to comply with such directions:

Provided that where the Authority issues a direction for settling a claim at a figure lower than that at which it has already been settled, the insurer shall be deemed to comply with such direction if he satisfies the Authority that all reasonable steps, with due regard to the question whether the expenditure involved is not disproportionate to the amount required to be recovered, have been taken with due despatch by him:

Provided further that no direction for the payment of a lesser sum shall be made where the amount of the claim has already been paid and the Authority is of opinion that the recovery of the amount paid in excess would cause undue hardship to the insured:

Provided also that nothing in this section shall relieve the insurer from any liability, civil or criminal, to which he would have been subject but for the provisions of this sub-section.

(7) No insurer shall, after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Act, 2015 pay to any person any fee or remuneration for surveying, verifying or reporting on a claim of loss under a policy of insurance unless the person making such survey, verification or report is an approved surveyor or loss assessor.

(8) Where, in the case of a claim of less than the amount specified in sub-section (4) in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer may employ any other person (not being a person disqualified for the time being for being employed as a surveyor or loss assessor) for surveying such loss and may pay such reasonable fee or remuneration to the person so employed as he may think fit.

(9) The Authority may in respect of any claim of value of less than the amount specified in sub-section (4) on an insurance policy, if the claim has not been or is not proposed to be reported upon by a surveyor or loss assessor, direct that such claim shall be reported upon by an approved surveyor or loss assessor and where the Authority makes such direction, the provisions of sub-sections (5) and (6) shall apply in respect of such claim.

(10) Where, in relation to any class of claims, the Authority is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a licensed surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order, exempt such class of claims from the operation of this section.

83. For sections 64V and 64VA of the Insurance Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 64V
and 64VA.

Assets and
liabilities how
to be valued.

“64V. (1) For the purpose of ascertaining compliance with the provisions of section 64VA, assets shall be valued at value not exceeding their market or realisable value and certain assets may be excluded by the Authority in the manner as may be specified by the regulations made in this behalf.

(2) A proper value shall be placed on every item of liability of the insurer in the manner as may be specified by the regulations made in this behalf.

(3) Every insurer shall furnish to the Authority along with the returns required to be filed under this Act, a statement, certified by an Auditor, approved by the Authority, in respect of general insurance business or an actuary approved by the Authority in respect of life insurance business, as the case may be, of his assets and liabilities assessed in the manner required by this section as on the 31st day of March of each year within such time as may be specified by the regulations.

64VA. (1) Every insurer and re-insurer shall at all times maintain an excess of value of assets over the amount of liabilities of, not less than fifty per cent. of the amount of minimum capital as stated under section 6 and arrived at in the manner specified by the regulations.

Sufficiency of assets.

(2) An insurer or re-insurer, as the case may be, who does not comply with sub-section (1), shall be deemed to be insolvent and may be wound-up by the court on an application made by the Authority.

(3) The Authority shall by way of regulation made for the purpose, specify a level of solvency margin known as control level of solvency on the breach of which the Authority shall act in accordance with the provisions of sub-section (4) without prejudice to taking of any other remedial measures as deemed fit:

Provided that if in respect of any insurer the Authority is satisfied that either by reason of an unfavourable claim experience or because of a sharp increase in the volume of new business, or for any other reason, compliance with the provisions of this sub-section shall cause undue hardship to the insurer, it may direct that for such period and subject to such conditions as it may specify, the provisions of this sub-section shall apply to that insurer with such modifications provided that such modifications shall not result in the control level of solvency being less than what is stipulated under sub-section (1).

(4) If, at any time, an insurer or re-insurer does not maintain the required control level of solvency margin, he shall, in accordance with the directions issued by the Authority, submit a financial plan to the Authority, indicating a plan of action to correct the deficiency within a specified period not exceeding six months.

(5) An insurer who has submitted a plan, as required under sub-section (4), the Authority shall propose modifications to the plan, if the Authority considers the same inadequate, and in such an eventuality, the Authority shall give directions, as may be deemed necessary, including direction in regard to transacting any new business, or, appointment of an administrator or both.

(6) An insurer or re-insurer, as the case may be, who does not comply with the provisions of sub-section (4) shall be deemed to have made default in complying with the requirements of this section.

(7) The Authority shall be entitled at any time to take such steps as it may consider necessary for the inspection or verification of the assets and liabilities of any insurer or re-insurer, or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date, and the insurer or re-insurer, as the case may be, shall comply with any requisition made in this behalf by the Authority, and in the event of any failure to do so within two months from the receipt of the requisition, the insurer or re-insurer, as the case may be, shall be deemed to have made default in complying with the requirements of this section.

(8) In applying the provisions of sub-section (1) to any insurer or re-insurer, as the case may be, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy:

Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India shall comply with the requirements of sub-section (1) as if he had not been an insurer in a group at any time:

Provided further that it shall be sufficient compliance of the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within a period of six months from the date of cessation of the group:

Provided also that the Authority may, on sufficient cause being shown, extend the said period of six months by such further periods as it may think fit, so, however that the total period may not in any case exceed one year.

(9) Every insurer shall furnish to the Authority return giving details of solvency margin in such form, time, manner including its authentication as may be specified by the regulations.”.

Substitution
of new
section for
section 64VC.

84. For section 64VC of the Insurance Act, the following section shall be substituted, namely:—

Restrictions
on opening of
new place of
business.

“64VC. No insurer shall, after the commencement of the Insurance (Amendment) Act, 1968, open a new place of business or close a place in India or outside India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India or outside India, except in the manner as may be specified by the regulations.”.

62 of 1968.

Omission of
Part III and
Part IIIA.

85. PART III and PART IIIA of the Insurance Act shall be omitted.

Omission of
Part IV.

86. PART IV of the Insurance Act shall be omitted.

Amendment
of section
102.

87. In section 102 of the Insurance Act, for the words "not exceeding five lakh rupees for each such failure and punishable with fine", the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less" shall be substituted.

Substitution of
new sections
for sections
103 and 104.

88. For sections 103 and 104 of the Insurance Act, the following sections shall be substituted, namely:—

Penalty for
carrying on
insurance
business in
contravention
of section 3.

“103. If a person carries on the business of insurance without obtaining a certificate of registration under section 3, he shall be liable to a penalty not exceeding rupees twenty-five crores and with imprisonment which may extend to ten years.

Penalty for
contravention
of sections
27, 27A, 27B,
27D and 27E.

104. If a person fails to comply with the provisions of section 27, section 27A, section 27B, section 27D and section 27E, he shall be liable to a penalty not exceeding twenty-five crore rupees.”.

Amendment
of section
105.

89. In section 105 of the Insurance Act, for the words "not exceeding two lakh rupees for each such failure", the words "not exceeding one crore rupees" shall be substituted.

90. For sections 105B and 105C of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 105B and 105C.

"105B. If an insurer fails to comply with the provisions of section 32B, section 32C and section 32D, he shall be liable to a penalty not exceeding twenty-five crore rupees.

Penalty for failure to comply with sections 32B, 32C and 32D.

105C. (1) For the purpose of adjudication under sub-section (2) of section 2CB, sub-section (4) of section 34B, sub-section (3) of section 40, sub-section (2) of section 41, sub-sections (4) and (5) of section 42, sub-sections (8) and (9) of section 42D, section 52F and section 105B, the Authority, shall appoint any officer not below the rank of a Joint Director or an equivalent officer to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard.

Power to adjudicate.

(2) Upon receipt of the inquiry report from the officer so appointed, the Authority, after giving an opportunity of being heard to the person concerned, may impose any penalty provided in sections aforesaid.

(3) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if on such inquiry, is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may recommend such penalty as he thinks fit in accordance with the provisions of any of those sections.

105D. While recommending the quantum of penalty under section 105C, the adjudicating officer and while imposing such penalty, the Authority shall have due regard to the following factors, namely:—

Factors to be taken into account by the adjudicating officer.

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to the policyholders as a result of the default; and

(c) the repetitive nature of default."

91. In section 106A of the Insurance Act, in sub-section (12),—

Amendment of section 106A.

(i) clauses (a), (b) and (f) shall be omitted;

(ii) in clause (d), the words "or a provident society" shall be omitted.

92. Sections 107 and 107A of the Insurance Act shall be omitted.

Omission of section 107 and 107A.

93. For section 109 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 109.

"109. No court shall take cognizance of any offence punishable under this Act or any rules or any regulations made thereunder, save on a complaint made by an officer of the Authority or by any person authorised by it."

Cognizance of offence.

Substitution
of new
section for
section 110.

Appeal to
Securities
Appellate
Tribunal.

94. For section 110 of the Insurance Act, the following section shall be substituted, namely:—

"110. (1) Any person aggrieved—

(a) by an order of the Authority made on and after the commencement of the Insurance Laws (Amendment) Act, 2015, or under this Act, the rules or regulations made thereunder; or

(b) by an order made by the Authority by way of adjudication under this Act,

may prefer an appeal to the Securities Appellate Tribunal having jurisdiction in the matter.

(2) Every appeal made under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Authority is received by him and it shall be in such a form and be accompanied by such fees as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, conforming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall make available copy of order made by it to the Authority and parties.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of appeal.

(6) The procedure for filing and disposing of an appeal shall be such as may be prescribed.

(7) The provision contained in section 15U, section 15V, section 15W, section 15Y and section 15Z of the Securities and Exchange Board of India Act, 1992 shall apply to the appeals arising out of the provisions of this Act, as they apply to the appeals under the Securities and Exchange Board of India Act, 1992." 15 of 1992.

95. Section 110E of the Insurance Act shall be omitted.

96. Sections 110G and 110H of the Insurance Act shall be omitted.

97. After section 110H of the Insurance Act, the following section shall be inserted, namely:—

"110HA. Any penalty imposed by the Authority under this Act shall be recoverable as an arrear of land revenue."

98. In section 111 of the Insurance Act,—

(a) in sub-section (1), the words "or provident society" occurring at both the places shall be omitted;

(b) in sub-section (2), in the proviso, the words "or to a provident society" shall be omitted.

Omission of
section 110E.

Omission of
sections 110G
and 110H.

Insertion of
new section
110HA.

Penalty to be
recoverable as
arrear of land
revenue.

Amendment
of section
111.

99. For section 113 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 113.

"113. (1) A policy of life insurance shall acquire surrender value as per the norms specified by the regulations.

Acquisition of surrender value by policy.

(2) Every policy of life insurance shall contain the formula as approved by the Authority for calculation of guaranteed surrender value of the policy.

(3) Notwithstanding any contract to the contrary, a policy of life insurance under a non-linked plan which has acquired a surrender value shall not lapse by reason of non-payment of further premiums but shall be kept in force to the extent of paid-up sum insured, calculated by means of a formula as approved by the Authority and contained in the policy and the reversionary bonuses that have already been attached to the policy:

Provided that a policy of life insurance under a linked plan shall be kept in force in the manner as may be specified by the regulations.

(4) The provisions of sub-section (3) shall not apply—

(i) where the paid-up sum insured by a policy, inclusive of attached bonuses, is less than the amount specified by the Authority or takes the form of annuity of amount less than the amount specified by the Authority; or

(ii) when the parties, after the default has occurred in payment of the premium, agree in writing to other arrangement."

100. In section 114 of the Insurance Act,—

Amendment of section 114.

(a) in sub-section (2),—

(i) clause (aa) shall be omitted;

(ii) after clause (aa) as so omitted, the following clause shall be inserted, namely:—

"(aaa) the manner of ownership and control of Indian insurance company under sub-clause (b) of clause (7A) of section 2;"

(iii) clause (c) and clause (f) shall be omitted;

(iv) after clause (l), the following clauses shall be inserted, namely:—

"(la) the manner of inquiry under sub-section (l) of section 105C;

(lb) the form in which an appeal may be preferred under sub-section (2) and the fee payable in respect of such appeal and the procedure for filing and disposing of an appeal under sub-section (6) of section 110;"

(b) in sub-section (3), the words, brackets, figures and letters "or under sub-section (1) of section 64UB and every regulation made under sub-section (3) of section 64UB" shall be omitted.

101. In section 114A of the Insurance Act, in sub-section (2),—

Amendment of section 114A.

(i) for clauses (a) and (aa), the following clause shall be substituted, namely:—

"(a) manner of making application for registration and documents to be accompanied under sub-section (2) of section 3;"

(ii) for clause (d), the following clause shall be substituted, namely:—

"(d) such annual fee to the Authority and manner of payment under sub-section (1) of section 3A;"

(iii) after clause (d), the following clauses shall be inserted, namely:—

"(da) such minimum annuity and other benefits to be secured by the insurer under section 4;

(*daa*) determination of preliminary expenses that may be excluded for calculation of the stipulated paid-up equity capital for the insurers under sub-section (1) of section 6;

(*db*) such equity capital and such forms of capital including hybrid capital required under sub-section (1) of section 6A;";

(*iv*) clause (*e*) shall be omitted;

(*v*) after clause (*e*), as so omitted, the following clause shall be inserted, namely:—

"(*ea*) separation of account of all receipts and payments in respect of each classes and sub-classes of insurance business as required under sub-section (1) and sub-section (2AA) of section 10; and its waiver under the said section;";

(*vi*) in clause (*f*), for the words, brackets, figures and letter "under sub-section (1A) of section 11", the words, brackets and figures "under sub-section (1) of section 11" shall be substituted;

(*vii*) for clause (*g*), the following clause shall be substituted, namely:—

"(*g*) the manner in which an abstract of the report of the actuary to be specified and the form and manner in which the statement referred to in section 13 shall be appended;";

(*viii*) after clause (*g*), the following clauses shall be inserted, namely:—

"(*ga*) maintenance of records of policies and claims under clause (*c*) of sub-section (1) of section 14;

(*gb*) manner and form of issuance of policies in electronic form under sub-section (2) of section 14;";

(*ix*) for clause (*h*), the following clause shall be substituted, namely:—

"(*h*) the fee for procuring a copy of return or any part thereof under sub-section (1) of section 20;";

(*x*) for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) investment of assets and further provisions regarding investments by an insurer and investment by insurers in certain cases under sections 27, 27A, 27B, 27C and time, manner and other conditions of investment of assets under section 27D;";

(*xi*) for clauses (*ia*), (*ib*), (*ic*), (*id*) and (*ie*), the following clauses shall be substituted, namely:—

"(*ia*) the form in which a return giving details of investments made, time and manner including its authentication under section 28;

(*ib*) the loans including the loans sanctioned to the full-time employees of the insurer under clause (*a*) of sub-section (3) of section 29;

(*ic*) the sum to be paid by the insurer to any person under section 31B;

(*id*) the obligation of insurer in respect of rural or social or unorganised sector and backward classes under sections 32B and 32C;

(*ie*) the minimum percentage of insurance business in third party risks of motor vehicles under section 32D;";

(*xii*) for clause (*j*), the following clause shall be substituted, namely:—

"(*j*) the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in

which such information shall be maintained, the checks and other verifications in that connection and all other matters incidental thereto under sub-section (7) of section 33;";

(xiii) after clause (j), the following clauses shall be inserted, namely:—

"(ja) the form in which balance-sheets in respect of the insurance business of each of the insurers concerned and the manner in which actuarial reports and abstracts in respect of the life insurance business are to be prepared under clauses (b) and (c) of sub-section (3) of section 35;

(jb) the manner of assessment of compensation under the proviso to sub-section (4A) of section 37A;

(jc) the fee to be charged by the insurer under sub-section (3) of section 39;

(jd) the manner and amount of remuneration or reward to be paid or received by way of commission or otherwise to an insurance agent or an intermediary or insurance intermediary under section 40;

(je) the manner and form of expenses of management under sections 40B and 40C;";

(xiv) clauses (k) and (l) shall be omitted;

(xv) for clause (m), the following clause shall be substituted, namely:—

"(m) the requisite qualifications or practical training or examination to be passed for appointment as an insurance agent under clause (e) of sub-section (3) of section 42;";

(xvi) clause (n) shall be omitted;

(xvii) for clause (o), the following clause shall be substituted, namely:—

"(o) the code of conduct under clause (h) of sub-section (3) of section 42;";

(xviii) clause (p) shall be omitted;

(xix) clause (va) shall be omitted;

(xx) in clause (vb), the words, brackets and figure "sub-section (2) of" shall be omitted;

(xxi) clause (w) shall be omitted;

(xxii) for clause (x), the following clauses shall be substituted, namely:—

"(x) academic qualifications and code of conduct for surveyors and loss assessors under sub-sections (1) and (2) of section 64UM;

(xa) the period for which a person may act as a surveyor or loss assessor under sub-section (3) of section 64UM;";

(xxiii) for clause (y), the following clause shall be substituted, namely:—

"(y) the manner of exclusion of certain assets under sub-section (1), the manner of valuation of liabilities under sub-section (2) and time for furnishing statement under sub-section (3) of section 64V;";

(xxiv) for clause (za), the following clause shall be substituted, namely:—

"(za) the matters specified under sub-section (1) of section 64VA relating to sufficiency of assets;";

(xxv) after clause (zaa), the following clauses shall be inserted, namely:—

"(zab) the form, time, manner including authentication of the return giving details of solvency margin under sub-section (9) of section 64VA;

(zac) the manner of opening and closing places of business under section 64VC;";

(xxvi) after clause (zb), the following clause shall be inserted, namely:—

"(zba) the norms for surrender value of life insurance policy under sub-section (1) of section 113;"

Omission of Fifth, Sixth and Eighth Schedules.

102. In the Insurance Act, the Fifth Schedule, the Sixth Schedule and the Eighth Schedule shall be omitted.

CHAPTER III

AMENDMENTS TO THE GENERAL INSURANCE BUSINESS (NATIONALISATION) ACT, 1972

Insertion of a new section 10B.

103. In the General Insurance Business (Nationalisation) Act, 1972, after section 10A, 57 of 1972. the following section shall be inserted, namely:—

Enhancement of equity capital of General Insurance companies.

"10B. The General Insurance Corporation and the insurance companies specified in section 10A may, raise their capital for increasing their business in rural and social sectors, to meet solvency margin and such other purposes, as the Central Government may empower in this behalf:

Provided that the shareholding of the Central Government shall not be less than fifty one per cent. at any time."

Omission of section 25.

104. Section 25 of the General Insurance Business (Nationalisation) Act, 1972 shall be 57 of 1972. omitted.

CHAPTER IV

AMENDMENTS TO THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999

Amendment of section 2.

105. In section 2 of the Insurance Regulatory and Development Authority Act, 1999, in 41 of 1999. sub-section (1),—

(i) in clause (b), after the words "Development Authority", the words "of India", shall be inserted;

(ii) for clause (f), the following clause shall be substituted, namely:—

'(f) "Intermediary" or "insurance intermediary" includes insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, surveyors and loss assessors and such other entities, as may be notified by the Authority from time to time.'

Amendment of section 3.

106. In section 3 of the Insurance Regulatory and Development Authority Act, 1999, in 41 of 1999. sub-section (1), after the words "Development Authority" the words "of India" shall be inserted.

Amendment of section 16.

107. In section 16 of Insurance Regulatory and Development Authority Act, 1999, in 41 of 1999. sub-section (1), clause (c) shall be omitted.

Repeal and savings.

108. (1) The Insurance Laws (Amendment) Ordinance, 2014, is hereby repealed. Ord. 8 of 2014.

(2) Notwithstanding such repeal, anything done or any action taken under the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999 as amended by the said Ordinance, shall 4 of 1938. 57 of 1972. 41 of 1999. be deemed to have been done or taken under the corresponding provisions of the said Acts, as amended by this Act.

Sd/-

Dr. SANJAY SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th October, 2015.

No. RPB/452-2015/Act-10-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 27th March, 2015, Chaitra 6, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 26th March, 2015 is hereby published for general information :-

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT ACT, 2015

AN

(Act No. 10 of 2015.)

ACT

[26th March, 2015.]

further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2015. Short title and commencement.
(2) It shall be deemed to have come into force on the 12th day of January, 2015.

Amendment
of section 3.

2. In the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act), in section 3,—

67 of 1957.

(i) after clause (e), the following clause shall be inserted, namely:—

“(ea) “notified minerals” means any mineral specified in the Fourth Schedule;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(ga) “prospecting licence-cum-mining lease” means a two stage ~~concession~~ granted for the purpose of undertaking prospecting operations followed by mining operations;”;

(iii) in clause (hb), the word “and”, occurring at the end, shall be omitted;

(iv) after clause (hb), the following clause shall be inserted, namely:—

“(hc) “Special Court” means a Court of Session designated as Special Court under sub-section (1) of section 30B; and”.

Amendment
of section 4.

3. In section 4 of the principal Act, in the second proviso to sub-section (1), for the words and figures “section 617 of the Companies Act, 1956”, the words, brackets and figures “clause (45) of section 2 of the Companies Act, 2013, and any such entity that may be notified for this purpose by the Central Government” shall be substituted.

1 of 1956.

18 of 2013.

Amendment
of section
4A.

4. In section 4A of the principal Act, in sub-section (4), for the provisos, the following provisos shall be substituted, namely:—

“Provided that the State Government may, on an application made by the holder of such lease before it lapses and on being satisfied that it will not be possible for the holder of the lease to undertake mining operations or to continue such operations for reasons beyond his control, make an order, within a period of three months from the date of receiving of such application, subject to such conditions as may be prescribed, to the effect that such lease shall not lapse:

Provided further that such lease shall lapse on failure to undertake mining operations or inability to continue the same before the end of a period of six months from the date of the order of the State Government:

Provided also that the State Government may, on an application made by the holder of a lease submitted within a period of six months from the date of its lapse and on being satisfied that such non-commencement or discontinuance was due to reasons beyond the control of the holder of the lease, revive the lease within a period of three months from the date of receiving the application from such prospective or retrospective date as it thinks fit but not earlier than the date of lapse of the lease:

Provided also that no lease shall be revived under the third proviso for more than twice during the entire period of the lease.”

Amendment
of section 5.

5. In section 5 of the principal Act,—

(A) in sub-section (1),—

(i) in clause (a), for the words, brackets and figures “sub-section (1) of section 3 of the Companies Act, 1956”, the words, brackets and figures “clause (20) of section 2 of the Companies Act, 2013” shall be substituted;

1 of 1956.

18 of 2013.

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.”;

(B) in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) there is evidence to show the existence of mineral contents in the area for which the application for a mining lease has been made in accordance with such parameters as may be prescribed for this purpose by the Central Government;”;

(ii) after clause (b), the following proviso shall be inserted, namely:—

“Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government.”.

6. In section 6 of the principal Act, in sub-section (1), in clause (b), for the proviso, the following proviso shall be substituted, namely:—

Amendment of section 6.

“Provided that if the Central Government is of the opinion that in the interest of the development of any mineral or industry, it is necessary so to do, it may, for reasons to be recorded in writing, increase the aforesaid area limits in respect of prospecting licence or mining lease, in so far as it pertains to any particular mineral, or to any specified category of deposits of such mineral, or to any particular mineral located in any particular area.”.

7. For section 8 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 8.

“8. (1) The provisions of this section shall apply to minerals specified in Part A of the First Schedule.

Periods for which mining leases may be granted or renewed.

(2) The maximum period for which a mining lease may be granted shall not exceed thirty years:

Provided that the minimum period for which any such mining lease may be granted shall not be less than twenty years.

(3) A mining lease may be renewed for a period not exceeding twenty years with the previous approval of the Central Government.”.

8. After section 8 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 8A.

“8A. (1) The provisions of this section shall apply to minerals other than those specified in Part A and Part B of the First Schedule.

Period of grant of a mining lease for minerals other than coal, lignite, and atomic minerals.

(2) On and from the date of the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, all mining leases shall be granted for the period of fifty years.

(3) All mining leases granted before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 shall be deemed to have been granted for a period of fifty years.

(4) On the expiry of the lease period, the lease shall be put up for auction as per the procedure specified in this Act.

(5) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, where mineral is used for captive purpose, shall be extended and be deemed to have been extended up to a period ending on the 31st March, 2030 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty

years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.

(6) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, where mineral is used for other than captive purpose, shall be extended and be deemed to have been extended up to a period ending on the 31st March, 2020 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.

(7) Any holder of a lease granted, where mineral is used for captive purpose, shall have the right of first refusal at the time of auction held for such lease after the expiry of the lease period.

(8) Notwithstanding anything contained in this section, the period of mining leases, including existing mining leases, of Government companies or corporations shall be such as may be prescribed by the Central Government.

(9) The provisions of this section, notwithstanding anything contained therein, shall not apply to a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, for which renewal has been rejected, or which has been determined, or lapsed. ”.

9. After section 9A of the principal Act, the following sections shall be inserted, namely:—

“9B. (1) In any district affected by mining related operations, the State Government shall, by notification, establish a trust, as a non-profit body, to be called the District Mineral Foundation.

(2) The object of the District Mineral Foundation shall be to work for the interest and benefit of persons, and areas affected by mining related operations in such manner as may be prescribed by the State Government.

(3) The composition and functions of the District Mineral Foundation shall be such as may be prescribed by the State Government.

(4) The State Government while making rules under sub-sections (2) and (3) shall be guided by the provisions contained in article 244 read with Fifth and Sixth Schedules to the Constitution relating to administration of the Scheduled Areas and Tribal Areas and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(5) The holder of a mining lease or a prospecting licence-cum-mining lease granted on or after the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one-third of such royalty, as may be prescribed by the Central Government.

(6) The holder of a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount not exceeding the royalty paid in terms of the Second Schedule in such manner and subject to the categorisation of the mining leases and the amounts payable by the various categories of lease holders, as may be prescribed by the Central Government.

Insertion of
new sections
9B and 9C.

District
Mineral
Foundation.

40 of 1996.
2 of 2007.

(5) When the Authority suspends or cancels any registration under clause (a), clause (d), clause (e), clause (f), clause (g) or clause (i) of sub-section (4), it shall give notice in writing to the insurer of its decision, and the decision shall take effect on such date as it may specify in that behalf in the notice, such date not being less than one month not more than two months from the date of the receipt of the notice in the ordinary course of transmission.

(5A) When the Authority suspends or cancels any registration under clause (b), (c), (j) or (k) of sub-section (4), the suspension or cancellation, as the case may be, shall take effect on the date on which notice of the order of suspension or cancellation is served on the insurer."

(vi) for sub-section (5C), the following sub-section shall be substituted, namely:—

"(5C) Where a registration is suspended or cancelled under clause (a), clause (d), clause (e), clause (f), clause (g) or clause (i) of sub-section (4), the Authority may at its discretion revive the registration, if the insurer within six months from the date on which the suspension or cancellation took effect complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities or has had an application under sub-section (4) of section 3A accepted, or satisfies the Authority that no claim upon him such as is referred to in clause (e) of sub-section (4) remains unpaid or that he has complied with any requirement of this Act or the Insurance Regulatory and Development Authority Act, 1999, or of any rule or any regulation, or any order made thereunder or any direction issued under those Acts, or that he has ceased to carry on any business other than insurance business or any prescribed business, as the case may be, and complies with any directions which may be given to him by the Authority."

41 of 1999.

7. For section 3A of the Insurance Act, the following section shall be substituted, namely:—

"3A. (1) An insurer who has been granted a certificate of registration under section 3 shall pay such annual fee to the Authority in such manner as may be specified by the regulations.

(2) Any failure to deposit the annual fee shall render the certificate of registration liable to be cancelled."

8. For section 4 of the Insurance Act, the following section shall be substituted, namely:—

"4. The insurer shall pay or undertake to pay on any policy of life insurance or a group policy issued, a minimum annuity and other benefits as may be determined by regulations excluding any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid-up policy of any value or payment of surrender value of any amount."

9. In section 5 of the Insurance Act,—

(i) in sub-section (1), both the provisos shall be omitted;

(ii) sub-section (3) shall be omitted.

10. For section 6 of the Insurance Act, the following section shall be substituted, namely:—

"6. (1) No insurer not being an insurer as defined in sub-clause (d) of clause (9) of section 2, carrying on the business of life insurance, general insurance, health

Substitution of new section for section 3A.

Payment of annual fee by insurer.

Substitution of new section for section 4.

Minimum limits for annuities and other benefits secured by policies of life insurance.

Amendment of section 5.

Substitution of new section for section 6.

Requirement as to capital.

insurance or re-insurance in India or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall be registered unless he has,—

41 of 1999.

(i) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on the business of life insurance or general insurance; or

(ii) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on exclusively the business of health insurance; or

(iii) a paid-up equity capital of rupees two hundred crore, in case of a person carrying on exclusively the business as a re-insurer:

Provided that the insurer, may enhance the paid-up equity capital, as provided in this section in accordance with the provisions of the Companies Act, 2013, the Securities and Exchange Board of India Act, 1992 and the rules, regulations or directions issued thereunder or any other law for the time being in force:

18 of 2013.

15 of 1992.

Provided further that in determining the paid-up equity capital, any preliminary expenses incurred in the formation and registration of any insurer as may be specified by the regulations made under this Act, shall be excluded.

(2) No insurer, as defined in sub-clause (d) of clause (9) of section 2, shall be registered unless he has net owned funds of not less than rupees five thousand crore."

Amendment
of section
6A.

II. In section 6A of the Insurance Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) No public company limited by shares having its registered office in India, shall carry on life insurance business or general insurance business or health insurance business or re-insurance business, unless it satisfies the following conditions, namely:—

(i) that the capital of the company shall consist of equity shares each having a single face value and such other form of capital, as may be specified by the regulations;

(ii) that the voting rights of shareholders are restricted to equity shares;

(iii) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid-up amount is the same for all shares, whether existing or new:

Provided that the conditions specified in this sub-section shall not apply to a public company which has, before the commencement of the Insurance (Amendment) Act, 1950, issued any shares other than ordinary shares each of which has a single face value or any shares, the paid-up amount whereof is not the same for all of them for a period of three years from such commencement."

47 of 1950.

(ii) in sub-section (2), after the words "paid-up amount of the", the word "equity" shall be inserted;

(iii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) A public company as aforesaid which carries on life insurance business, general and health insurance business and re-insurance business—

(a) shall, in addition to the register of members maintained under the Companies Act, 2013, maintain a register of shares in which the name, occupation and address of the beneficial owner of each share shall be

18 of 2013.

entered including any change of beneficial owner declared to it within fourteen days from the receipt of such declaration;

(b) shall not register any transfer of its shares—

18 of 2013.

(i) unless, in addition to compliance being made with the provisions of section 56 of the Companies Act, 2013, the transferee furnishes a declaration in the prescribed form as to whether he proposes to hold the shares for his own benefit or as a nominee, whether jointly or severally, on behalf of others and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each;

(ii) where, after the transfer, the total paid-up holding of the transferee in the shares of the company is likely to exceed five per cent. of its paid-up capital unless the previous approval of the Authority has been obtained to the transfer;

(iii) where, the nominal value of the shares intended to be transferred by any individual, firm, group, constituents of a group, or body corporate under the same management, jointly or severally exceeds one per cent. of the paid-up equity capital of the insurer, unless the previous approval of the Authority has been obtained for the transfer.

Explanation.—For the purposes of this sub-clause, the expressions "group" and "same management" shall have the meanings respectively assigned to them in the Competition Act, 2002.;

12 of 2003.

(iv) sub-sections (3), (6), (7), (8), (9) and (10) shall be omitted;

(v) in sub-section (11),—

(a) in the opening portion, the words, brackets and figures "except those of sub-sections (7), (8) and (9)" shall be omitted;

(b) in clause (i), the word "and" shall be omitted;

(c) clause (ii) shall be omitted;

(d) in the *Explanation* 1, in clause (ii), in sub-clause (c), the words "managing agent" shall be omitted.

12. Section 6AA of the Insurance Act shall be omitted.

13. In section 6B of the Insurance Act,—

(i) in sub-section (1),—

(a) for the words "life insurance business", the words "life or general or health insurance or re-insurance business" shall be substituted; and

(b) for the words "Central Government", the word "Authority" shall be substituted;

(ii) in sub-sections (2) and (3), for the words "High Court", the words "the Securities Appellate Tribunal" shall be substituted;".

(iii) sub-section (4) shall be omitted.

14. Sections 6C, 7, 8 and 9 of the Insurance Act shall be omitted.

15. In section 10 of the Insurance Act,—

(i) in sub-section (1), for the words "prescribed in this behalf", the words "specified by the regulations" shall be substituted;

Omission of
section 6AA.
Amendment
of section 6B.

Omission of
sections 6C,
7, 8 and 9.

Amendment
of section 10.

(ii) in sub-section (2),—

(a) the words, brackets and figures, "after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946", shall be omitted;

6 of 1946.

(b) the words "under the law of the insurer's country" occurring at the end, shall be omitted.

(iii) after sub-section (2A), the following sub-section shall be inserted, namely:—

"(2AA) Where the insurer carries on the business of insurance, all receipts due in respect of each sub-class of such insurance business shall be carried to and shall form a separate fund, the assets of which shall be kept separate and distinct from other assets of the insurer and every insurer shall submit to the Authority the necessary details of such funds as may be required by the Authority from time to time and such funds shall not be applied directly or indirectly, save as expressly permitted under this Act or regulations made thereunder."

Substitution
of new
section for
section 11.

16. For section 11 of the Insurance Act, the following section shall be substituted, namely:—

Accounts and
balance sheet.

"11. (1) Every insurer, on or after the date of the commencement of the Insurance Laws (Amendment) Act, 2015, in respect of insurance business transacted by him and in respect of his shareholders' funds, shall, at the expiration of each financial year, prepare with reference to that year, balance sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations as may be specified.

(2) Every insurer shall keep separate accounts relating to funds of shareholders and policyholders.

(3) Unless the insurer is a company as defined in clause (20) of section 2 of the Companies Act, 2013, the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman, if any, and two directors and the principal officer of the company, or in case of an insurance cooperative society by the person in charge of the society and shall be accompanied by a statement containing the names, descriptions and occupations of, and the directorships held by, the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report on the affairs of the business during that period."

18 of 2013.

Substitution
of new
section for
section 12.

17. For section 12 of the Insurance Act, the following section shall be substituted, namely:—

Audit.

"12. The balance sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in respect of all insurance business transacted by him, shall, unless they are subject to audit under the Companies Act, 2013, be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 147 of the Companies Act, 2013."

18 of 2013.

Amendment
of section 13.

18. In section 13 of the Insurance Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every insurer carrying on life insurance business shall, once at least every year cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the regulations:

(*qqb*) the manner of usage of funds accrued to the National Mineral Exploration Trust under sub-section (2) of section 9C;

(*qqc*) the composition and functions of the National Mineral Exploration Trust under sub-section (3) of section 9C;

(*qqd*) the manner of payment of amount to the National Mineral Exploration Trust under sub-section (4) of section 9C;

(*qqe*) the terms and conditions subject to which mining leases shall be granted under sub-section (3) of section 10B;

(*qqf*) the terms and conditions, and procedure, subject to which the auction shall be conducted including the bidding parameters for the selection under sub-section (5) of section 10B;

(*qqg*) the time limits for various stages in processing applications for grant of mining lease or prospecting licence-cum-mining lease under sections 10B, 11, 11A, 11B, and section 17A, and their renewals;

(*qqh*) the terms and conditions for grant of non-exclusive reconnaissance permits under sub-section (1) of section 10C;

(*qqi*) the terms and conditions for grant of prospecting licence-cum-mining leases under sub-section (4) of section 11;

(*qqj*) the terms and conditions, and procedure, including the bidding parameters for the selection under sub-section (6) of section 11;

(*qqk*) the amount to be payable by a Government company or corporation, or a joint venture for grant of mining lease under sub-section (2C) of section 17A; and”.

15. In section 15 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment
of section 15.

“(4) Without prejudice to sub-sections (1), (2) and sub-section (3), the State Government may, by notification, make rules for regulating the provisions of this Act for the following, namely:—

(a) the manner in which the District Mineral Foundation shall work for the interest and benefit of persons and areas affected by mining under sub-section (2) of section 9B;

(b) the composition and functions of the District Mineral Foundation under sub-section (3) of section 9B; and

(c) the amount of payment to be made to the District Mineral Foundation by concession holders of minor minerals under section 15A.”.

16. After section 15 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
15A.

“15A. The State Government may prescribe the payment by all holders of concessions related to minor minerals of amounts to the District Mineral Foundation of the district in which the mining operations are carried on.”.

Power of
State
Government
to collect
funds for
District
Mineral
Foundation in
case of minor
minerals.

Amendment
of section
17A.

17. In section 17A of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Where in exercise of the powers conferred by sub-section (1A) or sub-section (2), the Central Government or the State Government, as the case may be, reserves any area for undertaking prospecting or mining operations, the State Government shall grant prospecting licence or mining lease, as the case may be, in respect of such area to such Government company or corporation:

Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, the State Government shall grant the prospecting licence or mining lease, as the case may be, only after obtaining the previous approval of the Central Government.

(2B) Where the Government company or corporation is desirous of carrying out the prospecting operations or mining operations in a joint venture with other persons, the joint venture partner shall be selected through a competitive process, and such Government company or corporation shall hold more than seventy-four per cent. of the paid up share capital in such joint venture.

(2C) A mining lease granted to a Government company or corporation, or a joint venture, referred to in sub-sections (2A) and (2B), shall be granted on payment of such amount as may be prescribed by the Central Government.”.

18. After section 20 of the principal Act, the following section shall be inserted, namely:—

“20A. (1) Notwithstanding anything contained in this Act, the Central Government may issue such directions to the State Governments, as may be required for the conservation of mineral resources, or on any policy matter in the national interest, and for the scientific and sustainable development and exploitation of mineral resources.

(2) In particular, and without prejudice to the generality of the foregoing powers, the Central Government may also issue directions in respect of the following matters, namely:—

(i) improvement in procedure for grant of mineral concessions and to ensure co-ordination among agencies entrusted with according statutory clearances;

(ii) maintenance of internet-based databases including development and operation of a mining tenement system;

(iii) implementation and evaluation of sustainable development frameworks;

(iv) reduction in waste generation and related waste management practices and promotion of recycling of materials;

(v) minimising and mitigating adverse environmental impacts particularly in respect of ground water, air, ambient noise and land;

(vi) ensuring minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat;

(vii) promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities; and

(viii) such other matters as may be necessary for the purposes of implementation of this Act.”.

19. In section 21 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.

Insertion of
new section
20A.

Power of
Central
Government
to issue
directions.

Amendment
of section 21.

(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.”

20. For section 30 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 30.

“30. The Central Government may, of its own motion or on an application made within the prescribed time by an aggrieved party, —

Power of revision by Central Government.

(a) revise any order made by a State Government or other authority in exercise of the powers conferred on it by or under this Act with respect to any mineral other than a minor mineral; or

(b) where no such order has been made by the State Government or other authority in exercise of the powers conferred on it by or under this Act with respect to any mineral other than a minor mineral within the time prescribed therefor, pass such order as it may think fit and appropriate in the circumstances:

Provided that in cases covered by clause (b) the Central Government shall, before passing any order under this clause, give an opportunity of being heard or to represent in the matter.”

21. After section 30A of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 30B and 30C.

“30B. (1) The State Government may, for the purposes of providing speedy trial of offences for contravention of the provisions of sub-section (1) or sub-section (1A) of section 4, constitute, by notification, as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

Constitution of Special Courts.

(2) A Special Court shall consist of a Judge who shall be appointed by the State Government with the concurrence of the High Court.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is or has been a District and Sessions Judge.

(4) Any person aggrieved by the order of the Special Court may prefer an appeal to the High Court within a period of sixty days from the date of such order.

30C. Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973, shall apply to the proceedings before the Special Court and for the purpose of the provisions of this Act, the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a public prosecutor.”

Special Courts to have powers of Court of Session.

22. In the principal Act, in the First Schedule, for the figures and brackets “8(2)”, the figures, brackets, letters and word “8(1), 8A(1), 10A, 10B(1), 10C(1), 11(1), 11B, 11C, 12A(1), and 17A(2A)” shall be substituted.

Amendment of First Schedule.

23. In the principal Act, after the Third Schedule, the following Schedule shall be inserted, namely:—

Insertion of a new Schedule.

"THE FOURTH SCHEDULE

[See clause (ea) of section 3]

Notified Minerals

1. Bauxite.
2. Iron ore.
3. Limestone.
4. Manganese ore.

Power to
remove
difficulties.

24. (1) If any difficulty arises in giving effect to the provisions of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the said Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of the said Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and
savings.

25. (1) The Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, is hereby repealed.

Ord. 3 of
2015.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-
Dr. SANJAY SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
C. J. Gothi
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LVI]

TUESDAY, OCTOBER 6, 2015/ASVINA 14, 1937

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th October, 2015.

No. RPB/447-2015/Act-11-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 30th March, 2015, Chaitra 9, 1937 (Saka)

The following Act of Parliament has received the assent of the President on the 30th March, 2015 is hereby published for general information :-

THE COAL MINES (SPECIAL PROVISIONS) ACT, 2015

AN

(Act No. 11 of 2015.)

ACT

[30th March, 2015.]

to provide for allocation of coal mines and vesting of the right, title and interest in and over the land and mine infrastructure together with mining leases to successful bidders and allottees with a view to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilisation of coal resources consistent with the requirement of the country in national interest and for matters connected therewith or incidental thereto.

WHEREAS the Supreme Court *vide* judgment dated 25th August, 2014 read with its order dated 24th September, 2014 has cancelled the allocation of coal blocks and issued directions with regard to such coal blocks and the Central Government in pursuance of the said directions has to take immediate action to implement the said order;

AND WHEREAS it is expedient in public interest for the Central Government to take immediate action to allocate coal mines to successful bidders and allottees keeping in view the energy security of the country and to minimise any impact on core sectors such as steel, cement and power utilities, which are vital for the development of the nation;

AND WHEREAS Parliament is competent to legislate under entry 54 of List I of the Seventh Schedule to the Constitution for regulation of mines and mineral development to the

extent to which such regulation and development under the control of Union is declared by Parliament by law to be expedient in the public interest.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Coal Mines (Special Provisions) Act, 2015.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 21st day of October, 2014.

Declaration
as to
expediency
of Union
action.

2. It is hereby declared that it is expedient in the public interest that Union should take action for the development of Schedule I coal mines and extraction of coal on continuous basis for optimum utilisation.

Definitions.

3. (1) In this Act, unless the context otherwise requires,—

(a) “additional levy” means, the additional levy as determined by the Supreme Court in Writ Petition (Criminal) No. 120 of 2012 as two hundred and ninety-five rupees per metric tonne of coal extracted;

(b) “allotment order” means the allotment order issued under section 5;

(c) “appointed date” in relation to—

(i) Schedule I coal mines excluding Schedule II coal mines, shall be the 24th day of September, 2014 being the date on which the allocation of coal blocks to prior allottees stood cancelled; and

(ii) Schedule II coal mines shall be the 1st day of April, 2015 being the date on which the allocation of coal blocks to prior allottees shall stand cancelled,

in pursuance of the order of the Supreme Court dated the 24th September, 2014 passed in Writ Petition (Criminal) No. 120 of 2012;

(d) “bank” shall have the same meaning as assigned to it in clause (c) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(e) “coal mining operations” means any operation undertaken for the purpose of winning coal;

(f) “company” shall have the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013;

(g) “corporation” shall have the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013;

(h) “financial institution” shall have the same meaning as assigned to it in clause (m) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(i) “Government company” shall have the same meaning as assigned to it in clause (45) of section 2 of the Companies Act, 2013;

(j) “mine infrastructure” includes mining infrastructure such as tangible assets used for coal mining operations, being civil works, workshops, immovable coal winning equipment, foundations, embankments, pavements, electrical systems, communication systems, relief centres, site administrative offices, fixed installations, coal handling arrangements, crushing and conveying systems, railway sidings, pits, shafts, inclines, underground transport systems, hauling systems (except movable equipment unless

54 of 2002.

18 of 2013.

18 of 2013.

54 of 2002.

18 of 2013.

the same is embedded in land for permanent beneficial enjoyment thereof), land demarcated for afforestation and land for rehabilitation and resettlement of persons affected by coal mining operations under the relevant law;

(k) "nominated authority" means the authority nominated by the Central Government under section 6;

(l) "notification" means a notification published in the Official Gazette;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "prior allottee" means prior allottee of Schedule I coal mines as listed therein who had been allotted coal mines between 1993 and 31st day of March, 2011, whose allotments have been cancelled pursuant to the judgment of the Supreme Court dated the 25th August, 2014 and its order dated 24th September, 2014 including those allotments which may have been de-allocated prior to and during the pendency of the Writ Petition (Criminal) No.120 of 2012.

Explanation.—In case a mining lease has been executed in favour of a third party, subsequent to such allocation of Scheduled I coal mines, then, the third party shall be deemed to be the prior allottee;

(o) "Schedule" means a Schedule appended to this Act;

(p) "Schedule I coal mines" means,—

(i) all the coal mines and coal blocks the allocation of which was cancelled by the judgment dated 25th August, 2014 and its order dated 24th September, 2014 passed in Writ Petition (Criminal) No.120 of 2012, including those allotments which may have been de-allocated prior to and during the pendency of the said Writ Petition;

(ii) all the coal bearing land acquired by the prior allottee and lands, in or adjacent to the coal mines used for coal mining operations acquired by the prior allottee;

(iii) any existing mine infrastructure as defined in clause (j);

(q) "Schedule II coal mines" means the forty-two Schedule I coal mines listed in Schedule II which are the coal mines in relation to which the order of the Supreme Court dated 24th day of September, 2014 was made;

(r) "Schedule III coal mines" means the thirty-two Schedule I coal mines listed in Schedule III or any other Schedule I coal mine as may be notified under sub-section (2) of section 7;

(s) "secured creditor" shall have the same meaning as assigned to it in clause (zd) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

(t) "secured debt" shall have the same meaning as assigned to it in clause (ze) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

(u) "security interest" shall have the same meaning as assigned to it in clause (zf) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

(v) "specified end-use" means any of the following end-uses and the expression "specified end-user" shall with its grammatical variations be construed accordingly,—

(i) production of iron and steel;

(ii) generation of power including the generation of power for captive use;

(iii) washing of coal obtained from a mine;

(iv) cement;

(v) such other end-use as the Central Government may, by notification, specify;

(w) "vesting order" means the vesting order issued under section 8.

(2) Words and expressions used herein and not defined, but defined in the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Mines and Minerals (Development and Regulation) Act, 1957 and the Coal Mines (Nationalisation) Act, 1973 including any rules or regulations made thereunder, shall have the meanings, respectively assigned to them in those Acts.

20 of 1957.

67 of 1957.

26 of 1973.

CHAPTER II

AUCTION AND ALLOTMENT

Eligibility to participate in auction and payment of fees.

4. (1) Subject to the provisions of section 5, Schedule I coal mines shall be allocated by way of public auction in accordance with such rules, and on the payment of such fees which shall not exceed five crore rupees, as may be prescribed.

(2) Subject to the provisions in sub-section (3) of this section and section 5, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed—

(a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or

(b) a company or a joint venture company formed by two or more companies, that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be, and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal to such company as selected through auction by competitive bidding under this section.

(3) Subject to the provisions of section 5, the following persons who fulfil such norms as may be prescribed, shall be eligible to bid in an auction of Schedule II coal mines and Schedule III coal mines and to engage in coal mining operations in the event they are successful bidders, namely:—

(a) a company engaged in specified end-use including a company having a coal linkage which has made such investment as may be prescribed.

Explanation.—A "company with a coal linkage" includes any such company whose application is pending with the Central Government on the date of commencement of this Act;

(b) a joint venture company formed by two or more companies having a common specified end-use and are independently eligible to bid in accordance with this Act;

(c) a Government company or corporation or a joint venture company formed by such company or corporation or with any other company having common specified end-use:

Provided that nothing contained in sub-section (2) shall apply to this sub-section.

(4) A prior allottee shall be eligible to participate in the auction process subject to payment of the additional levy within such period as may be prescribed and if the prior allottee has not paid such levy, then, the prior allottee, its promoter or any of its company of such prior allottee shall not be eligible to bid either by itself or by way of a joint venture.

(5) Any prior allottee who is convicted for an offence relating to coal block allocation and sentenced with imprisonment for more than three years, shall not be eligible to participate in the auction.

5. (1) Notwithstanding the provisions contained in sub-sections (1) and (3) of section 4, the Central Government may allot a Schedule I coal mine to a Government company or corporation or to a joint venture between two or more Government companies or corporations or to a company which has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects) from specified Schedule I coal mines by making an allotment order in accordance with such rules as may be prescribed and the State Government shall grant a reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal to such company or corporation:

Allotment of mines to Government companies or corporations.

Provided that the Government company or corporation may carry on Coal Mining in any form either for its own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be:

Provided further that no company other than a Government company or corporation shall hold more than twenty-six per cent. of the paid-up share capital in the Government company or corporation or in the joint venture between a Government company or corporation, either directly or through any of its subsidiary company or associate company:

Provided also that a joint venture of any two or more Government companies or corporations shall be prohibited from alienating or transferring any interest, except the taking of loans or advances from a bank or financial institution, in the joint venture of whatsoever nature including ownership in favour of a third party.

(2) No allotment under sub-section (1) shall be made to a prior allottee, if that allottee has not made the payment of the additional levy within the specified period.

6. (1) The Central Government shall appoint an officer not below the rank of a Joint Secretary to the Government of India as the nominated authority who shall act for and on behalf of the Central Government for the purposes of this Act and shall exercise such powers as may be prescribed.

Central Government to act through nominated authority.

(2) The nominated authority may engage any expert having such qualifications and experience and on such terms and conditions as may be prescribed to make recommendations to the authority for the conduct of auction and in drawing up of the vesting order or allotment order in relation to Schedule I coal mines.

(3) The Central Government shall act through the nominated authority for the following purposes, namely:—

- (a) conduct the auction process and allotment with the assistance of experts;
- (b) execution of the vesting order for transfer and vesting of Schedule I coal mines pursuant to the auction;
- (c) executing the allotment order for any Government company or corporation in pursuance of section 5;
- (d) recording and mutating incorporeal rights of whatsoever nature including, consents, permissions, permits, approvals, grants, registrations;
- (e) collection of auction proceeds; adjustment of preferential payments and transfer of amount to the respective State Governments where Schedule I coal mine is located in accordance with the provisions of this Act.

(4) The nominated authority shall complete the auction or execute the allotment orders of Schedule I coal mines within such time and in accordance with such rules as may be prescribed.

(5) The Central Government may appoint such other officers and staff as it may think fit to assist the nominated authority.

(6) The salaries and allowances and other terms and conditions of service of the nominated authority and such other officers and staff appointed under this section shall be such as may be prescribed.

(7) The nominated authority shall be bound by the written direction given by the Central Government on the question of policy.

Power to
classify
certain
Schedule I
coal mines by
Central
Government.

Nominated
authority to
issue vesting
order or
allotment
order.

7. (1) The Central Government may, before notifying the particulars of auction, classify mines identified from Schedule I coal mines as earmarked for the same class of specified end-uses.

(2) The Central Government may in public interest, by notification, modify Schedule III coal mines by adding any other Schedule I coal mine for the purposes of specified end-use.

8. (1) The nominated authority shall notify the prior allottees of Schedule I coal mines to enable them to furnish information required for notifying the particulars of Schedule I coal mines to be auctioned in accordance with such rules as may be prescribed.

(2) The information required to be furnished under sub-section (1) shall be furnished within a period of fifteen days from the date of such notice.

(3) A successful bidder in an auction conducted on a competitive basis in accordance with such rules as may be prescribed, shall be entitled to the vesting of Schedule I coal mine for which it bid, pursuant to a vesting order drawn up in accordance with such rules.

(4) The vesting order shall transfer and vest upon the successful bidder, the following, namely:—

(a) all the rights, title and interest of the prior allottee, in Schedule I coal mine concerned with the relevant auction;

(b) entitlement to a mining lease to be granted by the State Government;

(c) any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in Schedule I coal mines if already issued to the prior allottee;

(d) rights appurtenant to the approved mining plan of the prior allottee;

(e) any right, entitlement or interest not specifically covered under clauses (a) to (d).

(5) The nominated authority shall, in consultation with the Central Government, determine the floor price or reserve price in accordance with such rules as may be prescribed.

(6) The successful bidder shall, prior to the issuance and execution of a vesting order, furnish a performance bank guarantee for an amount as notified in relation to Schedule I coal mine auctioned to such bidder within such time, form and manner as may be prescribed.

(7) After the issuance of a vesting order under this section and its filing with the Central Government and with the appropriate authority designated by the respective State Governments, the successful bidder shall be entitled to take possession of the Schedule I coal mine without let or hindrance.

(8) Upon the execution of the vesting order, the successful bidder of the Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.

67 of 1957.

(9) A Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India, allotted a Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.

67 of 1957.

(10) In relation to Schedule II coal mines, the successful bidder which was a prior allottee, shall continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (8) is granted, upon the grant of a vesting order and to that extent, the successful bidder shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said sub-section.

(11) In relation to Schedule II coal mines, the Government company or corporation which was a prior allottee can continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (9) is granted, upon execution of the allotment order and to that extent, the allottee shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said sub-section.

(12) The provisions of sub-sections (1) and (2) and sub-sections (4) to (7) (both inclusive) of this section as applicable to a vesting order, shall *mutatis mutandis* be also applicable to an allotment order.

9. The proceeds arising out of land and mine infrastructure in relation to a Schedule I coal mine shall be disbursed maintaining, *inter alia*, the priority of payments in accordance with the relevant laws and such rules as may be prescribed—

Priority of disbursement of proceeds.

(a) payment to secured creditors for any portion of the secured debt in relation to a Schedule I, coal mine which is unpaid as on the date of the vesting order;

(b) compensation payable to the prior allottee in respect of the Schedule I coal mine.

CHAPTER III

TREATMENT OF RIGHTS AND OBLIGATIONS OF PRIOR ALLOTTEES

10. (1) A successful bidder or allottee in respect of Schedule I coal mines, may negotiate with prior allottee to own or utilise such movable property used in coal mining operations on such terms and conditions as may be mutually agreed to by them.

Utilisation of movable property used in coal mining operations.

(2) Where a successful bidder or allottee is not vested with any movable property of a Schedule I coal mine, then, he is not bound by any liabilities or obligations arising out of such ownership or contractual rights, obligations or liabilities which shall continue to remain with the prior allottee.

(3) In the event that the successful bidder or allottee is unable to satisfactorily negotiate with the prior allottee or any third party who has a contract with the prior allottee for the movable property, it shall be the obligation of the prior allottee or the third party to remove such movable property within a period not exceeding thirty days from the date of the vesting order, or the allotment order, as the case may be, and the successful bidder or allottee shall not be liable for any damage to such property.

(4) A successful bidder or allottee which has elected not to purchase or transfer or continue to use the movable property referred to in sub-section (1), shall prior to the execution of the vesting order or the allotment order, as the case may be, declare to the nominated authority that he intends to move and store such movable property of the prior allottee or such third party and after the date of the vesting order or the allotment order, as the case may be, the successful bidder or allottee shall be entitled to move and store such movable property, so as not to cause any impediment for coal mining operations.

(5) If a prior allottee or such third party which has contracted with the prior allottee for its movable property, fails to remove the movable property which the successful bidder or allottee has elected not to purchase or use in accordance with sub-section (4), then, after the period of seventy-five days from the vesting order or the allotment order, as the case may be, a successful bidder or allottee shall be entitled to dispose of such movable property which may be physically located within Schedule I coal mine, the successful bidder or the allottee,

shall, in such event be entitled to appropriate the sale proceeds of such movable property disposed of to pay for any cost incurred by the successful bidder or allottee, for the removal, storage, sale and disposal of such movable property, as a first charge over the sale proceeds of such movable property:

Provided that the remaining sale proceeds after appropriation of costs, shall be paid by the successful bidder or allottee to the Central Government towards any compensation that may be payable to the owner of such movable property sold, upon establishment of title to such movable property in accordance with such rules as may be prescribed:

Provided further that if a third party contractor to the prior allottee owns such movable property, then, such third party shall be entitled to prove its right to receive compensation from the sale proceeds of the movable property sold as per this sub-section, in accordance with such rules as may be prescribed.

Discharge or adoption of third party contracts with prior allottees.

11. (1) Notwithstanding anything contained in any other law for the time being in force, a successful bidder or allottee, as the case may be, in respect of Schedule I coal mines, may elect, to adopt and continue such contracts which may be existing with any of the prior allottees in relation to coal mining operations and the same shall constitute a novation for the residual term or residual performance of such contract:

Provided that in such an event, the successful bidder or allottee or the prior allottee shall notify the nominated authority to include the vesting of any contracts adopted by the successful bidder.

(2) In the event that a successful bidder or allottee elects not to adopt or continue with existing contracts which had been entered into by the prior allottees with third parties, in that case all such contracts which have not been adopted or continued shall cease to be enforceable against the successful bidder or allottee in relation to the Schedule I coal mine and the remedy of such contracting parties shall be against the prior allottees.

Provisions in relation to secured creditors.

12. (1) The secured creditors of the prior allottees which had any security interest in any part of the land or mine infrastructure of a Schedule I coal mine shall be entitled to—

(a) continue with such facility agreements and security interest with the prior allottee if such prior allottee is a successful bidder or allottee; and

(b) in the event that the prior allottee is not a successful bidder or allottee, then the security interest of such secured creditor shall only be satisfied out of the compensation payable to such prior allottee, to the extent determined in accordance with such rules as may be prescribed and the outstanding debt shall be recoverable from the prior allottee.

(2) The Central Government shall, taking into consideration the provisions contained in section 9, prescribe the manner in which the secured creditor shall be paid out of the compensation in respect of any prior allottee.

Void alienations and permitted security interests.

13. Any and all alienations of land and mine infrastructure and creation of any encumbrances of whatsoever nature thereon which relate to Schedule I coal mines, made by any prior allottee after the 25th day of August, 2014 shall be void, save and except any registered security interest and charge over the land and mine infrastructure as registered by a bank or a financial institution or any other secured lender.

Liabilities of prior allottees.

14. (1) Notwithstanding anything contained in any other law for the time being in force, no proceedings, orders of attachment, distress, receivership, execution or the like, suits for the recovery of money, enforcement of a security or guarantee (except as otherwise provided for under this Act), prior to the date of commencement of this Act shall lie, or be proceeded further with and no remedies shall be available against the successful bidder, or allottee, as the case may be, or against the land and mine infrastructure in respect of Schedule I coal mines.

(2) The proceedings as referred to in sub-section (1), shall continue as a personal remedy against the prior allottee but shall not be maintainable or continued against the land or mine infrastructure of Schedule I coal mine or the successful bidder or allottee, pursuant to this Act.

(3) Every liability of any prior allottee in relation to a Schedule I coal mine in respect of any period prior to the vesting order or allotment order, shall be the liability of such prior allottee and shall be enforceable against it and not against the successful bidder or allottee or the Central Government.

(4) All unsecured loans shall continue to remain the liability of the prior allottee.

(5) The additional levy imposed against the prior allottees of Schedule II coal mines shall continue to remain the liability of such prior allottees and such additional levy shall be collected by the Central Government in such manner as may be prescribed.

(6) For the removal of doubts, it is hereby declared that—

(a) no claim for wages, bonus, royalty, rate, rent, taxes, provident fund, pension, gratuity or any other dues in relation to a Schedule I coal mine in respect of any period prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;

(b) no award, decree, attachment or order of any court, tribunal or other authority in relation to any Schedule I coal mine passed prior to the date of commencement of this Act, in relation to the land and mine infrastructure of Schedule I coal mines, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;

(c) no liability for the contravention of any provision of law for the time being in force, relating to any act or omission prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the successful bidder or allottee or the Central Government.

15. (1) For the purposes of disbursing the amounts payable to the prior allottees of Schedule I coal mines, the Central Government shall appoint an officer not below the rank of Joint Secretary to the Government of India, to be the Commissioner of payments.

Commissioner of payments to be appointed and his powers.

(2) The Central Government may appoint such other officers and staff as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such officers also to exercise all or any of the powers exercisable by him under this Act.

(3) Any officer authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on him directly by this Act and not by way of authorisation.

(4) The salaries and allowances and other terms and conditions of service of the Commissioner and other officers and staff appointed under this section shall be such as may be prescribed.

(5) The Central Government shall, within a period of thirty days from such date as may be notified, pay to the Commissioner for payment to the prior allottee, an amount equal to the compensation determined by the nominated authority.

(6) Separate records shall be maintained by the Commissioner in respect of each Schedule I coal mine in relation to which payments have been made to him under this Act.

16. (1) The quantum of compensation for the land in relation to Schedule I coal mines shall be as per the registered sale deeds lodged with the nominated authority in accordance with such rules as may be prescribed, together with twelve per cent. simple interest from the date of such purchase or acquisition, till the date of the execution of the vesting order or the allotment order, as the case may be.

Valuation of compensation for payment to prior allottee

(2) The quantum of compensation for the mine infrastructure in relation to Schedule I coal mines shall be determined as per the written down value reflected in the statutorily audited balance sheet of the previous financial year in accordance with such rules and in such manner as may be prescribed.

(3) If the successful bidder or allottee is a prior allottee of any of the Schedule I coal mines, then, the compensation payable to such successful bidder or allottee shall be set off or adjusted against the auction sum or the allotment sum payable by such successful bidder or allottee, as the case may be, for any of the Schedule I coal mines.

(4) The prior allottee shall not be entitled to compensation till the additional levy has been paid.

CHAPTER IV

POWERS OF THE CENTRAL GOVERNMENT AFTER THE APPOINTED DATE

Responsibility
of Central
Government
after
appointed
date.

17. (1) On and from the appointed date, the Central Government or a company owned by the Central Government shall be deemed to have become the lessee or licensee of the State Government in relation to each of the Schedule II coal mines, in respect of which a mining lease or prospecting licence has been granted prior to the date of commencement of this Act, as if a mining lease or prospecting licence in relation to such coal mine had been granted to the Central Government or a company owned by the Central Government and the period of such lease or licence shall be the maximum period for which such lease or licence could have been granted by the State Government under the Mineral Concession Rules, 1960, and thereupon all the rights under such mining lease, including surface, underground and other rights shall be deemed to have been transferred to, and vested in, the Central Government or a company owned by the Central Government.

(2) On the expiry of the term of any lease or licence, referred to in sub-section (1), such lease or licence shall be renewed, by the State Government, in consultation with the Central Government for the maximum period for which such lease or licence can be renewed under the Mineral Concession Rules, 1960.

(3) As it is considered expedient and necessary in the public interest and in view of the difficult situation which has arisen, the powers of the State Government, under the Mines and Minerals (Development and Regulation) Act, 1957, to prematurely terminate a prospecting licence or mining lease, shall stand suspended, in relation to Schedule I coal mines, for a period of one year from the date of commencement of this Act or such other period as may be notified by the Central Government.

67 of 1957.

Central
Government
to appoint
designated
custodian.

18. (1) On and from the appointed date, if the auction or allotment of Schedule I coal mines is not complete, the Central Government shall appoint any person as a designated custodian to manage and operate such coal mines as may be notified by the Central Government.

(2) The designated custodian shall act for and on behalf of the Central Government in respect of the notified coal mines under sub-section (1) to operate and manage such Schedule I coal mines in such manner as may be notified, till the completion of the auction of such coal mines or allotment under section 4 and section 5 read with section 8, as the case may be.

Powers and
functions of
designated
custodian in
respect of
Schedule II
coal mines.

19. (1) The designated custodian appointed under sub-section (1) of section 18, shall be entitled to take control and possession of all lands, in or adjacent to Schedule II coal mines, and used for coal mining operations and the mine infrastructure in relation to Schedule II coal mine, on behalf of the Central Government.

(2) The designated custodian may direct the prior allottees or any other persons in charge of the management of the Schedule II coal mines and coal mining operations immediately before the appointed date to provide the requisite manpower, as may be necessary, to ensure continuity in coal mining operations and production of coal.

(3) The designated custodian shall receive, to the exclusion of all other persons, any monies due to Schedule II coal mines, notwithstanding cases where such receipt pertains to a transaction made at any time before the appointed date.

(4) The designated custodian may call for any information, records and documents in relation to Schedule II coal mines and coal mining operations from any or all such persons who were in charge of the management and operation of such Schedule II coal mines prior to the appointed date, and such persons shall be bound to deliver to the designated custodian all such documents in their custody relating to Schedule II coal mines.

(5) The designated custodian may appoint such consultants or experts, as may be necessary, in relation to the management and operation of Schedule II coal mines.

(6) The designated custodian shall transfer the management and operation of any Schedule II coal mines to such person in such manner as may be prescribed.

(7) The designated custodian shall have rights, liabilities and obligations as a prior allottee or a successful bidder in respect of coal mines entrusted to it under section 18, to be exercised and discharged in such manner as may be prescribed.

(8) The designated custodian shall have the power to perform such other functions which may be consequential or incidental to the functions specified under this section.

(9) Notwithstanding anything contained in any other law for the time being in force, the designated custodian shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time.

CHAPTER V

CERTAIN ARRANGEMENTS

20. (1) A successful bidder or allottee or coal linkage holder shall, with the prior approval of the Central Government and in accordance with such rules as may be prescribed, be entitled to enter into certain agreements or arrangements with other successful bidder or allottee or coal linkage holder, as the case may be, for optimum utilisation of coal mine for the same end-uses in the public interest and to achieve cost efficiencies.

Power of Central Government to approve certain arrangements.

(2) A successful bidder or allottee may also use the coal mine from a particular Schedule I coal mine for any of its plants engaged in common specified end-uses, in accordance with such rules as may be prescribed.

CHAPTER VI

MISCELLANEOUS

30 of 2013. 21. (1) All existing land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in relation to Schedule I coal mines, shall continue in respect of such areas of land in accordance with the provisions of the said Act.

Acquisition of land.

30 of 2013. 20 of 1957. (2) All such areas of land which are not subject matter of land acquisition proceedings, in relation to the coal mines, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 may be proceeded with by the Central Government in terms of the Coal Bearing Areas (Acquisition and Development) Act, 1957.

30 of 2013. (3) The State Governments which have initiated land acquisition proceedings under provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and all such lands which are also subject matter of the said Act in respect of Schedule I coal mines, shall—

(a) not transfer any land to the prior allottees which have been acquired under the said Act;

(b) continue the land acquisition proceedings till the appointed date;

(c) for such Schedule I coal mines which have not vested in the successful bidder or the allottee, as the case may be, by the appointed date, continue the land acquisition proceedings for and on behalf of the Central Government;

(d) upon the vesting or the allotment, as the case may be, after the appointed date, continue such land acquisition proceedings on behalf of the successful bidder or the allottee.

Realisation
of additional
levy.

22. If a prior allottee of Schedule II coal mine fails to deposit the additional levy with the Central Government within the specified time, then, such additional levy shall be realised as the arrears of land revenue.

Penalties
for certain
offences.

23. If any person—

(a) obstructs or causes any impediment in taking possession or in the management and operation of the Schedule I coal mines by the Central Government or the designated custodian; or

(b) fails to deliver to the designated custodian any books of account, registers or any other document in his custody relating to Schedule I coal mines and coal mining operations in respect of the management of which the designated custodian has been appointed; or

(c) destroys or misuses any mine infrastructure or coal stock; or

(d) retains any property of such coal mine or removes or destroys it,

he and any officer-in-default of the company shall be punishable with imprisonment for a term which may extend to two years, or with the minimum fine of one lakh rupees per day and in the case of continuing failure, with a maximum fine of two lakh rupees for every day during which the failure continues or with both, depending upon the nature of the offence.

Penalty for
failure to
comply with
directions of
Central
Government.

24. If any person fails to comply, without reasonable cause, with a direction given by the Central Government or nominated authority or the designated custodian, he shall be punishable with a fine of one lakh rupees and in the case of continuing failure with a maximum fine of two lakh rupees for every day during which the failure continues, depending upon the nature of the offence.

Offences by
companies.

25. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Cognizance
of offences.

26. No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or nominated authority or the designated custodian.

Dispute
settlement
and Bar of
Jurisdiction
of civil
courts.

27. (1) Any dispute arising out of any action of the Central Government, nominated authority or Commissioner of payment or designated custodian, or any dispute between the successful bidder or allottee and prior allottee arising out of any issue connected with the Act shall be adjudicated by the Tribunal constituted under the Coal Bearing Areas (Acquisition and Development) Act, 1957

(2) Where the Central Government is of the opinion that any dispute arising out of any issue connected with the Act exists or is apprehended and the dispute should be adjudicated

by the Tribunal referred to in sub-section (1), then, the Central Government may by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, to the Tribunal for adjudication.

(3) The Tribunal referred to in sub-section (1) shall, after hearing the parties to the dispute, make an award in writing within a period of ninety days from the institution or reference of the dispute.

(4) On and from the commencement of the Act, no court or other authority, except the Supreme Court and a High Court, shall have, or be entitled to exercise, any jurisdiction, powers or authority, in relation to matters connected with the Act.

28. No suit, prosecution or other legal proceeding shall lie against the Central Government, nominated authority, commissioner of payment, or designated custodian or any person acting on their behalf, in respect of anything which is done or intended to be done in good faith under this Act.

29. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument having effect by virtue of any such law.

30. On and from the date of commencement of this Act, the Coal Mines (Nationalisation) Act, 1973 and the Mines and Minerals (Development and Regulation) Act, 1957 shall stand amended in the manner provided in Schedule IV.

31. (1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of allocation of Schedule I coal mines by way of public auction and details of fees under sub-section (1) of section 4;

(b) the terms and conditions for granting reconnaissance permit, prospecting licence or mining lease and the manner and conditions of competitive bidding under sub-section (2) of section 4;

(c) norms to become eligible to bid in an auction and the amount of investment in respect of a company having a coal linkage under sub-section (3) of section 4;

(d) the period within which the payment of additional levy by the prior allottee under sub-section (4) of section 4;

(e) the allotment order to make allocations to a Government company or corporation under sub-section (1) of section 5;

(f) the powers of the nominated authority under sub-section (1) of section 6;

(g) the manner of auction or allotment of Schedule I coal mines and execution of the vesting or allotment orders under sub-section (4) of section 6;

(h) the salaries and allowances and other terms and conditions of service of the nominated authority and other officers and staff under sub-section (6) of section 6;

(i) the manner of notifying the particulars of Schedule I coal mines to be auctioned and furnishing of required information by the prior allottees under sub-section (1) of section 8;

(j) the manner of conducting auction and drawing of a vesting order under sub-section (3) of section 8;

(k) determination of floor price by the nominated authority under sub-section (5) of section 8;

(l) the form and manner of furnishing of bank guarantee and the time within which such furnishing of bank guarantee under sub-section (6) of section 8;

26 of 1973.
67 of 1957.

Protection of
action taken
in good faith.

Act to
have
overriding
effect.

Amendment
of certain
Acts
contained in
Schedule IV.

Power to
make rules.

- (m) the manner of disbursement of priority payments under section 9;
- (n) the manner of establishing title of movable property by the prior allottee or third party who has a contract with the prior allottee for the movable property under the first proviso to sub-section (5) of section 10;
- (o) the manner of receiving compensation from the sale proceeds of the movable property under the second proviso to sub-section (5) of section 10;
- (p) the manner in which the secured creditor paid out of the compensation in respect of any prior allottee under sub-section (2) of section 12;
- (q) the manner of collection of additional levy by the Central Government from the prior allottees of Schedule II coal mines under sub-section (5) of section 14;
- (r) the salaries and allowances and other terms and conditions of service of the Commissioner of payments and other officers and staff under sub-section (4) of section 15;
- (s) the manner of determination of compensation payable to prior allottee and the lodging of registered sale deeds with the nominated authority under sub-section (1) of section 16;
- (t) the method of determination of compensation for mine infrastructure in relation to Schedule I and its reflection in the statutorily audited balance sheet under sub-section (2) of section 16;
- (u) the manner of transfer of the management and operation of any Schedule II coal mines by the designated custodian under sub-section (6) of section 19;
- (v) the manner of exercising and discharging the rights, liabilities and obligations by the designated custodian under sub-section (7) of section 19;
- (w) the manner of providing agreements or arrangements for optimum utilisation of coal mine for specified end-uses under sub-section (1) of section 20;
- (x) the manner of usage of coal mine by a successful bidder or allottee for any of its plants under sub-section (2) of section 20;
- (y) any other matter which is required to be, or may be, prescribed.

(3) Every rule made and every notification issued by the Central Government, under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Power to
remove
difficulties.

32. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal and
saving.

33. (1) The Coal Mines (Special Provisions) Second Ordinance, 2014 is hereby repealed.

Ord. 7 of
2014.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall, without prejudice to the judgment of the Supreme Court dated 25th August, 2014 and its order dated 24th September, 2014 passed in Writ Petition (Criminal) No. 120 of 2012, be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE I
[See section 3(1)(p)]

| Sl. No. | Name of Coal Mine/Block | Name of Prior Allottee | State where Coal Mine/Block Located |
|---------|------------------------------|---|-------------------------------------|
| 1 | 2 | 3 | 4 |
| 1 | Tadicherla-I | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 2 | Anesttipali | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 3 | Punkula-Chilka | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 4 | Penagaddppa | Andhra Pradesh Power Generation Corpn. Ltd. | Telangana |
| 5 | Namchik Namphuk | Arunachal Pradesh Mineral Dev. & Trading Corporation | Arunachal Pradesh |
| 6 | Sayang | AES Chhattisgarh Energy Pvt. Ltd | Chhattisgarh |
| 7 | Rajgamar Dipside (Deavnara) | API Ispat & Powertech Pvt. Ltd., CG Sponge Manufacturers Consortium Coalfield Pvt. Ltd. | Chhattisgarh |
| 8 | Durgapur-II/Taraimar | Bharat Aluminium Company Ltd. | Chhattisgarh |
| 9 | Datima | Binani Cement Ltd. | Chhattisgarh |
| 10 | Tara | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 11 | Gare-Palma, Sector-I | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 12 | Shankarpur Bhatgaon II Extn. | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 13 | Sondhia | Chhattisgarh Mineral Development Corporation Limited | Chhattisgarh |
| 14 | Parsa | Chhattisgarh State Electricity Board | Chhattisgarh |
| 15 | Vijay Central | Coal India Limited, SKS Ispat & Power Ltd. | Chhattisgarh |
| 16 | Gidhmuri | Chhattisgarh State Electricity Board | Chhattisgarh |
| 17 | Paturia | Chhattisgarh State Electricity Board | Chhattisgarh |
| 18 | Durgapur-II/Sarya | DB Power Ltd. | Chhattisgarh |
| 19 | Bhaskarpara | Electrotherm (India) Ltd., Grasim Industries Ltd. | Chhattisgarh |
| 20 | West of Umaria | Sainik Finance and Industries Ltd. (Earlier Garuda Clays Ltd.) | Chhattisgarh |
| 21 | Morga II | Gujarat Mineral Development Corporation | Chhattisgarh |
| 22 | Gare-Palma Sector-III | Goa Industrial Development Corporation | Chhattisgarh |
| 23 | Madanpur South | Hindustan Zinc Ltd., Akshya Investment Pvt. Ltd, Chhattisgarh Steel & Power Ltd., Chhattisgarh Electricity Corporation Ltd., MSP Steel & Power Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Cos.) | Chhattisgarh |
| 24 | Nakia I | Ispat Godavari Ltd., Ind Agro Synergy Ltd., Shri Nakoda Ispat Ltd., Vandana Global Ltd., Shree Bajrang Power & Ispat Ltd. | Chhattisgarh |
| 25 | Nakia II | Ispat Godavari, Ind Agro Synergy, Shri Nakoda Ispat, Vandana Global Ltd., Shree Bajrang Power & Ispat Ltd. | Chhattisgarh |
| 26 | Gare-Palma-IV/4 | Jayaswal Neco Ltd. | Chhattisgarh |
| 27 | Gare-Palma-IV/8 | Jayaswal Neco Ltd. | Chhattisgarh |
| 28 | Gare-Palma-IV/2 | Jindal Power Ltd. (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 29 | Gare-Palma-IV/3 | Jindal Power Ltd. (Now Jindal Steel & Power Ltd.) | Chhattisgarh |

| 1 | 2 | 3 | 4 |
|----|--|---|--------------|
| 30 | Gare-Palma-IV/1 | Jindal Strips Limited (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 31 | Gare-Palma IV/6 | Jindal Steel & Power Ltd., Nalwa Sponge Iron Ltd. | Chhattisgarh |
| 32 | Fatehpur East | JLD Yavatmal Energy Ltd., R.K.M. Powergen Pvt. Ltd., Visa Power Ltd., Green Infrastructure Pvt Ltd., Vandana Vidyut Ltd. | Chhattisgarh |
| 33 | Morga-I | Madhya Pradesh State Mining Corporation Limited | Chhattisgarh |
| 34 | Morga-III | Madhya Pradesh State Mineral Corporation Limited | Chhattisgarh |
| 35 | Morga-IV | Madhya Pradesh State Mineral Corporation Limited | Chhattisgarh |
| 36 | Gare-Palma Sector-II | Maharashtra State Mining Corpn. Ltd. Tamil Nadu State Electricity Board | Chhattisgarh |
| 37 | Gare-Palma-IV/5 | Monnet Ispat Ltd. | Chhattisgarh |
| 38 | Rajgamar Dipside (South of Phulakdih Nala) | Monnet Ispat and Energy Ltd., Topworth Steel Pvt. Ltd. | Chhattisgarh |
| 39 | Talaipali | National Thermal Power Ltd. | Chhattisgarh |
| 40 | Chotia | Prakash Industries Ltd. | Chhattisgarh |
| 41 | Gare-Palma-IV/7 | Raipur Alloys & Steel Ltd. (Now Sarda Energy and Mineral Limited) | Chhattisgarh |
| 42 | Parsa East | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 43 | Kesla North | Rathi Udyog Ltd. | Chhattisgarh |
| 44 | Kanta Basan | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 45 | Panchbahani | Shree Radhe Industries Ltd. | Chhattisgarh |
| 46 | Fatehpur | SKS Ispat and Power Ltd., Prakash Industries Ltd. | Chhattisgarh |
| 47 | Madanpur (North) | Ultratech Ltd., Singhal Enterprise Ltd., Nav bharat Coalfield Ltd., Vandana Energy & Steel Pvt. Ltd., Prakash Industries Ltd., Anjani Steel Pvt. Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Co.) | Chhattisgarh |
| 48 | Brinda | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 49 | Sasai | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 50 | Meral | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 51 | Seregarha | Arcelor Mittal India Ltd., GVK Power (Govindwal Sahib) Ltd. | Jharkhand |
| 52 | Patal East | Bhushan Power and Steel Ltd. | Jharkhand |
| 53 | Saria Koiyatand | Bihar Rajya Khanij Vikas Nigam (BRKVN) Patna. | Jharkhand |
| 54 | Macherkunda | Bihar Sponge Iron Ltd. | Jharkhand |
| 55 | Brahmadiha | Castron Technologies Ltd. | Jharkhand |
| 56 | Mahuagarhi | Calcutta Electricity Supply Corporation Ltd. (CESC), Jas Infrastructure Capital Pvt. Ltd. | Jharkhand |
| 57 | Chitarpur | Corporate Ispat Alloys Ltd. | Jharkhand |
| 58 | Saharpur Jamarpani | Damodar Valley Corporation | Jharkhand |
| 59 | Lalgarh (North) | Domco Smokeless Fuel Pvt. Ltd. | Jharkhand |
| 60 | Parbatpur-Central | Electrosteel castings Ltd. | Jharkhand |
| 61 | Chakla | Essar Power Ltd. | Jharkhand |
| 62 | Ashok Karkatta Central | Essar Power Ltd. | Jharkhand |

| 1 | 2 | 3 | 4 |
|----|-----------------------------------|---|-----------|
| 63 | Jainagar | Gujarat Mineral Development Corporation (GMDC) | Jharkhand |
| 64 | Tokisud North | GVK Power (Govindwal Sahib) Ltd. | Jharkhand |
| 65 | Tubed | Hindalco Industries Ltd., Tata Power Company Ltd. | Jharkhand |
| 66 | Moitra | Jayaswal Neco Ltd. | Jharkhand |
| 67 | North Dhadu | Jharkhand Ispat Pvt. Ltd., Pavanjay Steel & Power Ltd., Electrosteel castings Ltd., Adhunik Alloys & Power Ltd. | Jharkhand |
| 68 | Banhardih | Jharkhand State Electricity Board | Jharkhand |
| 69 | Sugia Closed mine | Jharkhand State Mineral Development Corporation | Jharkhand |
| 70 | Rauta Closed mine | Jharkhand State Mineral Development Corporation | Jharkhand |
| 71 | Burakhap small patch | Jharkhand State Mineral Development Corporation | Jharkhand |
| 72 | Pindra-Debipur-Khaowatand | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 73 | Latehar | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 74 | Patratu | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 75 | Rabodih OCP | Jharkhand State Mineral Development Corporation Ltd. | Jharkhand |
| 76 | Jogeshwar & Khas Jogeshwar | Jharkhand State Mineral Development Corporation | Jharkhand |
| 77 | Jitpur | Jindal Steel & Power Ltd. | Jharkhand |
| 78 | Amarkonda Murgadangal | Jindal Steel and Power Ltd., Gagan Sponge Iron Pvt. Ltd. | Jharkhand |
| 79 | Urma Paharitola | Jharkhand State Electricity Board, Bihar State Mineral Development Corporation Ltd. | Jharkhand |
| 80 | Rohne | JSW Steel Ltd., Bhushan Power & Steel Ltd., Jai Balaji Industries Ltd. | Jharkhand |
| 81 | Gomia | Metals and Minerals Trading Corporation | Jharkhand |
| 82 | Rajhara North (Central & Eastern) | Mukund Limited, Vini Iron & Steel Udyog Limited | Jharkhand |
| 83 | Dumri | Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd. | Jharkhand |
| 84 | Kerandari | National Thermal Power Ltd. | Jharkhand |
| 85 | Chhatti Bariatu | National Thermal Power Ltd. | Jharkhand |
| 86 | Chhati Bariatu South | National Thermal Power Ltd. | Jharkhand |
| 87 | Brahmini | National Thermal Power Ltd.+ Coal India Limited JV | Jharkhand |
| 88 | Chichro Patsimal | National Thermal Power Ltd.+ Coal India Limited JV | Jharkhand |
| 89 | Pachwara Central | Punjab State Electricity Board | Jharkhand |
| 90 | Mahal | Rashtriya Ispat Nigam Limited | Jharkhand |
| 91 | Tenughat-Jhirki | Rashtriya Ispat Nigam Limited | Jharkhand |
| 92 | Bundu | Rungta Mines Limited | Jharkhand |
| 93 | Mednirai | Rungta Mines Limited, Kohinoor Steel (P) Ltd. | Jharkhand |
| 94 | Choritand Tiliaya | Rungta Mines Limited, Sunflag Iron & Steel Co. Ltd. | Jharkhand |
| 95 | Sitanala | Steel Authority of India Ltd. | Jharkhand |
| 96 | Ganeshpur | Tata Steel Ltd., Adhunik Thermal Energy | Jharkhand |
| 97 | Badam | Tenughat Vidyut Nigam Limited | Jharkhand |

| 1 | 2 | 3 | 4 |
|-----|--|---|----------------|
| 98 | Rajbar E&D | Tenughat Vidyut Nigam Limited | Jharkhand |
| 99 | Gondulpara | Tenughat Vidyut Nigam Limited, Damodar Valley Corporation | Jharkhand |
| 100 | Kotre-Basantpur | Tata Iron and Steel Co. Ltd. (Now Tata Steel Ltd.) | Jharkhand |
| 101 | Pachmo | Tata Iron and Steel Co. Ltd. (Now Tata Steel Ltd.) | Jharkhand |
| 102 | Lohari | Usha Martin Ltd. | Jharkhand |
| 103 | Kathautia | Usha Martin Ltd. | Jharkhand |
| 104 | Pachwara North | West Bengal Power Development Corporation Limited (WBPDC) | Jharkhand |
| 105 | Suliyari | Andhra Pradesh Mineral Development Corporation | Madhya Pradesh |
| 106 | Bikram | Birla Corporation Ltd. | Madhya Pradesh |
| 107 | Gotitoria (East) | BLA Industries Ltd. | Madhya Pradesh |
| 108 | Gotitoria (West) | BLA Industries Ltd. | Madhya Pradesh |
| 109 | Mahan | Essar Power Ltd., Hindalco Industries Ltd. | Madhya Pradesh |
| 110 | Mandla North | Jaiprakash Associates Ltd. | Madhya Pradesh |
| 111 | Urtan North | Jindal Steel & Power Ltd., Monet Ispat and Energy Ltd. | Madhya Pradesh |
| 112 | Thesgora-B/ Rudrapuri | Kamal Sponge Steel & Power Limited, Revati Cement P. Ltd. | Madhya Pradesh |
| 113 | Amelia | Madhya Pradesh State Mining Corporation | Madhya Pradesh |
| 114 | Amelia (North) | Madhya Pradesh State Mining Corporation | Madhya Pradesh |
| 115 | Mandla South | Madhya Pradesh State Mining Corporation Ltd. | Madhya Pradesh |
| 116 | Dongeri Tal-II | Madhya Pradesh State Mining Corporation Ltd. (MPSMC) | Madhya Pradesh |
| 117 | Marki Barka | Madhya Pradesh State Mining Corporation (MPSMC) | Madhya Pradesh |
| 118 | Semaria/Piparia | Madhya Pradesh State Mining Corporation (MPSMC) | Madhya Pradesh |
| 119 | Bicharpur | Madhya Pradesh State Mining Corporation Ltd. (MPSMC) | Madhya Pradesh |
| 120 | Tandsi-III & Tandsi -III (Extn.) | Mideast Integrated Steels Ltd. | Madhya Pradesh |
| 121 | Sahapur East | National Mineral Dev. Corp. | Madhya Pradesh |
| 122 | Sahapur West | National Mineral Dev. Corp. | Madhya Pradesh |
| 123 | Mara II Mahan | NCT of Delhi, Delhi, Haryana Power Generation Corp. Ltd. (HPGCL) | Madhya Pradesh |
| 124 | Sial Ghoghri | Prism Cement Limited | Madhya Pradesh |
| 125 | Brahampuri | Pushp Steel and Mining Ltd. | Madhya Pradesh |
| 126 | Rawanwara North | SKS Ispat Limited | Madhya Pradesh |
| 127 | Bander | AMR Iron & Steels Pvt. Ltd., Century Textiles & Industries Ltd., J.K.Cement Ltd. | Maharashtra |
| 128 | Marki Mangli-I | B.S. Ispat Ltd. | Maharashtra |
| 129 | Takli-Jena- Bellora (North) & Takli-Jena- Bellora (South) | Central Collieries Co. Ltd. and Lloyds Metals & Engineering Ltd. | Maharashtra |
| 130 | Dahegaon/ Makardhokra-IV | IST Steel & Power Ltd., Gujarat Ambuja Cement Ltd., Lafarge India Pvt. Ltd. | Maharashtra |
| 131 | Gondkhari | Maharashtra Seamless Limited, Dhariwal Infrastructure (P) Ltd., Kesoram Industries Ltd. | Maharashtra |

| 1 | 2 | 3 | 4 |
|-----|-----------------------------|---|-------------|
| 132 | Marki-Zari-Jamani-Adkoli | Maharashtra State Mining Corpn. Ltd. | Maharashtra |
| 133 | Lohara (East) | Murli Industries Ltd., Grace Industries Ltd. | Maharashtra |
| 134 | Khappa & Extn. | Sunflag Iron & Steel Ltd., Dalmia Cement (Bharat) Ltd. | Maharashtra |
| 135 | Lohara West Extn. | Adani Power Ltd. | Maharashtra |
| 136 | Warora West (North) | Bhatia International Ltd. | Maharashtra |
| 137 | Kosar Dongergaon | Chaman Metaliks Ltd. | Maharashtra |
| 138 | Warora (West) Southern Part | Fieldmining & Ispat Ltd. | Maharashtra |
| 139 | Chinora | Fieldmining & Ispat Ltd. | Maharashtra |
| 140 | Majra | Gondwana Ispat Ltd. | Maharashtra |
| 141 | Nerad Malegaon | Gupta Metaliks & Power Ltd., Gupta Coalfields & Washeries Ltd. | Maharashtra |
| 142 | Baranj - I | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 143 | Baranj - II | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 144 | Baranj - III | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 145 | Baranj - IV | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 146 | Kiloni | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 147 | Manora Deep | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 148 | Agarzari | Maharashtra State Mining Corporation Limited (MSMCL) | Maharashtra |
| 149 | Warora | Maharashtra State Mining Corporation Limited (MSMCL) | Maharashtra |
| 150 | Bhandak West | Shree Baidyanath Ayurved Bhawan Ltd. | Maharashtra |
| 151 | Marki Mangli-II | Shree Veerangana Steel Limited. | Maharashtra |
| 152 | Marki Mangli-III | Shree Veerangana Steel Limited. | Maharashtra |
| 153 | Marki Mangli-IV | Shree Veerangana Steel Limited. | Maharashtra |
| 154 | Belgaon | Sunflag Iron & Steel Co. Ltd. | Maharashtra |
| 155 | Mandakini B | Assam Mineral Dev. Corporation Ltd., Meghalaya Mineral Dev. Corp., Tamil Nadu Electricity Board, Odisha Mining Corporation Ltd. | Odisha |
| 156 | New Patrapara | Bhusan Steel & Strips Ltd., Adhunik Metaliks Ltd., Deepak Steel & Power Ltd., Adhunik Corp. Ltd., Odisha Sponge Iron Ltd., SMC Power Generation Ltd., Sree Metaliks Ltd., Visa Steel Ltd. | Odisha |
| 157 | Bijahan | Bhushan Ltd., Shri Mahavir Ferro Alloys Pvt. Limited | Odisha |
| 158 | Jamkhani | Bhushan Ltd. | Odisha |
| 159 | Naini | Gujarat Mineral Development Corporation, Puducherry Industrial Promotion Development and Investment Corporation Limited | Odisha |
| 160 | Mahanadi | Gujarat State Electricity Corporation Limited, Maharashtra State Electricity Board | Odisha |
| 161 | Machhakata | Gujarat State Electricity Corporation Limited, Maharashtra State Electricity Board | Odisha |
| 162 | Talabira-I | Hindalco Industries Ltd. | Odisha |
| 163 | Ramchandi Promotion Block | Jindal Steel & Power Limited | Odisha |

| 1 | 2 | 3 | 4 |
|-----|-----------------------------|--|-------------|
| 164 | Utkal B 1 | Jindal Steel & Power Ltd. | Odisha |
| 165 | Baitarni West | Kerala State Electricity Board, Odisha Hydro Power Corp., Gujarat Power Corporation Ltd. | Odisha |
| 166 | Talabira II & III | Mahanadi Coalfields Ltd. (MCL), Neyveli Lignite Corporation Ltd., Hindalco Industries Ltd. | Odisha |
| 167 | Utkal-A | Mahanadi Coalfields Ltd. (MCL), JSW Steels Ltd., Jindal Thermal Power Comp. Ltd., Jindal Stainless Steels Ltd., Shyam DRI Ltd. | Odisha |
| 168 | Utkal-B2 | Monet Ispat Ltd. | Odisha |
| 169 | Mandakini | Monet Ispat Energy Ltd., Jindal Photo Ltd., Tata Power Company Ltd. | Odisha |
| 170 | Utkal 'E' | National Aluminium Corporation | Odisha |
| 171 | Dulanga | National Thermal Power Corporation | Odisha |
| 172 | Utkal-D | Odisha Mining Corporation | Odisha |
| 173 | Nuagaon Telisahi | Odisha Mining Corporation, Andhra Pradesh Mineral Development (APMDC) | Odisha |
| 174 | Manoharpur | Odisha Power Generation Corporation | Odisha |
| 175 | Dipside Manoharpur | Odisha Power Generation Corporation | Odisha |
| 176 | Radhikapur (West) | Rungta Mines Limited, OCL India Ltd., Ocean Ispat Ltd. | Odisha |
| 177 | Rampia | Sterlite Energy Ltd., (IPP), GMR Energy Ltd. (IPP), Arcelor Mittal India Ltd. (CPP), Lanco Group Ltd. (IPP), Navbharat Power Pvt. Ltd. (IPP), Reliance Energy Ltd. (IPP) | Odisha |
| 178 | Dip Side of Rampia | Sterlite Energy Ltd., (IPP), GMR Energy (IPP), Arcelor Mittal India Ltd. (CPP), Lanco Group Ltd. (IPP), Navbharat Power Pvt. Ltd. (IPP), Reliance Energy Ltd. (IPP) | Odisha |
| 179 | North of Arkhapal Srirampur | Strategic Energy Technology Systems Limited (SETSL) | Odisha |
| 180 | Radhikapur(East) | Tata Sponge Iron Ltd, Scaw Industries Ltd., SPS Sponge Iron Ltd. | Odisha |
| 181 | Chendipada | Uttar Pradesh Rajya Vidut Utpadan Limited, Chattishgarh Mineral Development Corporation Limited, Maharashtra State Power Generation Corporation Ltd. | Odisha |
| 182 | Chendipada-II | Uttar Pradesh Rajya Vidut Utpadan Limited, Chattishgarh Mineral Development Corporation Limited, Maharashtra State Power Generation Corporation Ltd. | Odisha |
| 183 | Utkal-C | Utkal Coal Ltd. (formerly ICCL) | Odisha |
| 184 | Biharinath | Bankura DRI Mining Manufacturers Co. Pvt. Ltd. | West Bengal |
| 185 | Andal East | Bhushan Steel Ltd., Jai Balaji Industries Ltd., Rashmi Cement Ltd. | West Bengal |
| 186 | Barjora (North) | Damodar Valley Corporation | West Bengal |
| 187 | Kagra Joydev | Damodar Valley Corporation | West Bengal |
| 188 | Kasta (East) | Damodar Valley Corporation | West Bengal |
| 189 | Gourangdih ABC | Himachal EMTA Power Ltd., JSW Steel Ltd. | West Bengal |
| 190 | Moirra-Madhujore | Ramsarup Lohh Udyog Ltd., Adhunik Corporation Ltd., Uttam Galva Steels Ltd., Howrah Gases Ltd., Vikas Metal & Power Ltd., ACC Ltd. | West Bengal |
| 191 | Sarisatolli | Calcutta Electricity Supply Corporation Ltd. | West Bengal |

| 1 | 2 | 3 | 4 |
|-----|-----------------------------------|---|-------------|
| 192 | Ardhagram | Sova Ispat Limited, Jaibalaji Sponge Ltd. | West Bengal |
| 193 | Tara (West) | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 194 | Gangaramchak | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 195 | Barjora | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 196 | Gangaramchak-Bhadulia | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 197 | Tara (East) | West Bengal State Electricity Board | West Bengal |
| 198 | Jaganathpur B | West Bengal Mineral Development & Trading Corp. | West Bengal |
| 199 | Sitarampur | West Bengal Mineral Dev. & Trading Corp. Ltd. | West Bengal |
| 200 | Trans Damodar | West Bengal Mineral Dev. & Trading Corp. Ltd. | West Bengal |
| 201 | Ichhapur | West Bengal Mineral Dev. & Trading Corp. Ltd. | West Bengal |
| 202 | Kulti | West Bengal Mineral Dev. & Trading Corp. Ltd. | West Bengal |
| 203 | Jaganathpur A | West Bengal Mineral Dev. & Trading Corp. Ltd. | West Bengal |
| 204 | East of Damogoria (Kalyaneshwari) | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |

SCHEDULE II

[See section 3(1)(g)]

| Sl. No. | Name of Coal Mine/Block | Name of Prior Allottee | State where Coal Mine/Block Located |
|---------|-------------------------|---|-------------------------------------|
| 1 | 2 | 3 | 4 |
| 1 | Namchik Namphuk | Arunachal Pradesh Mineral Dev. & Trading Corporation | Arunachal Pradesh |
| 2 | Gare-Palma-IV/4 | Jayaswal Neco Ltd. | Chhattisgarh |
| 3 | Gare-Palma-IV/2 | Jindal Power Ltd. (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 4 | Gare-Palma-IV/3 | Jindal Power Ltd. (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 5 | Gare-Palma-IV/1 | Jindal Strips Limited (Now Jindal Steel & Power Ltd.) | Chhattisgarh |
| 6 | Gare-Palma-IV/5 | Monet Ispat Ltd. | Chhattisgarh |
| 7 | Chotia | Prakash Industries Ltd. | Chhattisgarh |
| 8 | Gare-Palma-IV/7 | Raipur Alloys & Steel Ltd. (Now Sarda Energy and Mineral Limited) | Chhattisgarh |
| 9 | Parsa East | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 10 | Kanta Basan | Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL) | Chhattisgarh |
| 11 | Parbatpur-Central | Electrosteel Castings Ltd. | Jharkhand |
| 12 | Tokisud North | GVK Power (Govindwal Sahib) Ltd. | Jharkhand |
| 13 | Pachwara Central | Punjab State Electricity Board | Jharkhand |
| 14 | Kathautia | Usha Martin Ltd. | Jharkhand |
| 15 | Pachwara North | West Bengal Power Development Corporation Limited (WBPDC) | Jharkhand |
| 16 | Gotitoria (East) | BLA Industries Ltd. | Madhya Pradesh |
| 17 | Gotitoria (West) | BLA Industries Ltd. | Madhya Pradesh |
| 18 | Mandla North | Jaiprakash Associates Ltd. | Madhya Pradesh |
| 19 | Amelia (North) | Madhya Pradesh State Mining Corporation | Madhya Pradesh |
| 20 | Bicharpur | Madhya Pradesh State Mining Corporation Ltd. (MPSMC) | Madhya Pradesh |
| 21 | Sial Ghoghri | Prism Cement Limited | Madhya Pradesh |
| 22 | Marki Mangli-I | B.S. Ispat Ltd. | Maharashtra |
| 23 | Baranj - I | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 24 | Baranj - II | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 25 | Baranj - III | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 26 | Baranj - IV | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 27 | Kiloni | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 28 | Manora Deep | Karnataka Power Corp. Ltd. (KPCL) | Maharashtra |
| 29 | Marki Mangli-II | Shree Veerangana Steels Limited. | Maharashtra |
| 30 | Marki Mangli-III | Shree Veerangana Steels Limited. | Maharashtra |
| 31 | Belgaon | Sunflag Iron & Steel Co. Ltd | Maharashtra |
| 32 | Talabira-I | Hindalco Industries Ltd. | Odisha |
| 33 | Barjora (North) | Damodar Valley Corporation | West Bengal |
| 34 | Kagra Joydev | Damodar Valley Corporation | West Bengal |
| 35 | Sarisatolli | Calcutta Electricity Supply Corporation Ltd. | West Bengal |
| 36 | Ardhagram | Sova Ispat Limited, Jai balaji Sponge Ltd. | West Bengal |

| 1 | 2 | 3 | 4 |
|----|---------------------------|---|-------------|
| 37 | Tara (West) | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 38 | Gangaramchak | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 39 | Barjora | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 40 | Gangaramchak- Bhadulia | West Bengal Power Development Corporation Limited (WBPDC) | West Bengal |
| 41 | Tara (East) | West Bengal State Electricity Board | West Bengal |
| 42 | Trans Damodar | West Bengal Mineral Dev. & Trading Corp. Ltd. | West Bengal |

SCHEDULE III
[See section 3(1)(r)]

| Sl. No. | Name of Coal Mine/Block | Name of Prior Allottee | State where Coal Mine/Block Located |
|---------|-------------------------|--|-------------------------------------|
| 1 | 2 | 3 | 4 |
| 1 | Durgapur-II/Taraimar | Bharat Aluminium Company Ltd. | Chhattisgarh |
| 2 | Durgapur-II /Sarya | DB Power Ltd. | Chhattisgarh |
| 3 | Gare-Palma Sector-III | Goa Industrial Development Corporation | Chhattisgarh |
| 4 | Gare-Palma IV/8 | Jayaswal Neco Ltd. | Chhattisgarh |
| 5 | Talaipali | National Thermal Power Ltd. | Chhattisgarh |
| 6 | Chatti Bariatu | National Thermal Power Ltd. | Jharkhand |
| 7 | Mahan | Essar Power Ltd., Hindalco Industries Ltd. | Madhya Pradesh |
| 8 | Mandla South | Madhya Pradesh State Mining Corporation Ltd. | Madhya Pradesh |
| 9 | Dongeri Tal-II | Madhya Pradesh State Mining Corporation Ltd. (MPSMC) | Madhya Pradesh |
| 10 | Kosar Dongergaon | Chaman Metaliks Ltd. | Maharashtra |
| 11 | Nerad Malegaon | Gupta Metallics & Power Ltd., Gupta Coalfields & Washeries Ltd. | Maharashtra |
| 12 | Marki Mangli-IV | Shree Veerangana Steel Limited. | Maharashtra |
| 13 | Jamkhani | Bhushan Ltd. | Odisha |
| 14 | Utkal B 1 | Jindal Steel & Power Ltd. | Odisha |
| 15 | Utkal-B 2 | Monet Ispat Ltd. | Odisha |
| 16 | Mandakini | Monet Ispat Energy Ltd., Jindal Photo Ltd., Tata Power Company Ltd. | Odisha |
| 17 | Utkal-C | Utkal Coal Ltd. (formerly ICCL) | Odisha |
| 18 | Brinda | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 19 | Sasai | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 20 | Meral | Abhijeet Infrastructure Pvt. Ltd. | Jharkhand |
| 21 | Moitra | Jayaswal Neco Ltd | Jharkhand |
| 22 | Jitpur | Jindal Steel & Power Ltd. | Jharkhand |
| 23 | Rohne | JSW Steel Ltd., Bhushan Power & Steel Ltd., Jai Balaji Industries Ltd. | Jharkhand |
| 24 | Dumri | Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd. | Jharkhand |
| 25 | Kerandari | National Thermal Power Ltd. | Jharkhand |
| 26 | Sitanala | Steel Authority of India Ltd. | Jharkhand |
| 27 | Ganeshpur | Tata Steel Ltd., Adhunik Thermal Energy | Jharkhand |
| 28 | Badam | Tenughat Vidyut Nigam Limited | Jharkhand |
| 29 | Tara | Chhattisgarh Mineral Development Corporation Ltd. | Chhattisgarh |
| 30 | Lohari | Usha Martin Ltd. | Jharkhand |
| 31 | Dulanga | National Thermal Power Corporation | Odisha |
| 32 | Manoharpur | Odisha Power Generation Corporation | Odisha |

SCHEDULE IV

(See section 28)

PART A

THE COAL MINES (NATIONALISATION) ACT, 1973

(26 OF 1973)

1. In the Coal Mines (Nationalisation) Act, 1973 (herein referred to as the principal Act), in sub-section (1) of section 1A, after the word and figure "section 3", the word, figure and letter, "section 3A" shall be inserted.

Amendment of section 1A.

2. After section 3 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 3A.

3A. (1) Notwithstanding anything contained in this Act, any person being—

Mining operation by company or others.

(a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or

(b) a company or a joint venture company formed by two or more companies,

may carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the prospecting licence or mining lease, as the case may be.

(2) The Central Government may, with a view to rationalise such coal mines so as to ensure the coordinated and scientific development and utilisation of coal resources consistent with the growing requirements of the country, from time to time, prescribe—

(i) the coal mines or coal bearing areas and their location;

(ii) the minimum size of the coal mine or coal bearing areas;

(iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of coal mining operations or mining for sale by a company.

Explanation.—For the purposes of this section, "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013.

3. In section 34 of the principal Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 34

"(aa) the coal mines or coal bearing areas and their location, the minimum size of the coal mine or coal bearing areas, and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (2) of section 3A."

PART B

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957

(67 OF 1957)

1. In the Mines and Minerals (Development and Regulation) Act, 1957 (herein referred to as the principal Act), for section 11A, the following section shall be substituted, namely:—

Substitution of new section for section 11A

Granting of
reconnaissance
permit,
prospecting
licence or
mining lease.

11A. (1) Notwithstanding anything contained in this Act, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed, namely:—

(a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or

(b) a company or a joint venture company formed by two or more companies,

that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be.

(2) The Central Government may, with a view to rationalise coal and lignite mines referred to in sub-section (1), so as to ensure the coordinated and scientific development and utilisation of resources consistent with the growing requirements of the country, from time to time, prescribe—

(i) the details of mines and their location;

(ii) the minimum size of such mines;

(iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of mining operations or mining for sale by a company.

(3) The State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite to such company as selected through auction by competitive bidding or otherwise under this section:

Provided that the auction by competitive bidding under this section shall not be applicable to an area containing coal or lignite—

(a) where such area is considered for allocation to a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be;

(b) where such area is considered for allocation to a company or corporation or that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

Explanation.—For the purposes of this section, "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013.

2. In section 13 of the principal Act, in sub-section (2), for clause (d), the following clause shall be substituted, namely:—

Amendment
of section
13.

"(d) the terms and conditions of auction by competitive bidding, the details of mines and their location, the minimum size of such mines and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (1) and sub-section (2) of section 11A."

Sd/-

Dr. SANJAY SINGH ,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LVII

TUESDAY, OCTOBER 6, 2015/ASVINA 14, 1937

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th October, 2015.

No. RPB/447-2015/Act-12-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 30th March, 2015, Chaitra 9, 1937 (Saka)

The following Act of Parliament has received the assent of the President on the 30th March, 2015 is hereby published for general information :-

THE ANDHRA PRADESH REORGANISATION (AMENDMENT) ACT, 2015

AN

(Act No. 12 of 2015.)

ACT

[30th March, 2015.]

further to amend the Andhra Pradesh Reorganisation Act, 2014.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Andhra Pradesh Reorganisation (Amendment) Act, 2015.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

6 of 2014.

2. In the Andhra Pradesh Reorganisation Act, 2014 (hereinafter referred to as the principal Act), in section 22, in sub-section (1), for the figures and words "50 members in the Legislative Council of Andhra Pradesh", the figures and words "58 members in the Legislative Council of Andhra Pradesh" shall be substituted.

Amendment of
section 22.

Amendment
of section 23.

3. In section 23 of the principal Act,—

(i) in sub-section (1), for the figures and words “50 seats in the Legislative Council of Andhra Pradesh”, the figures and words “58 seats in the Legislative Council of Andhra Pradesh” shall be substituted;

(ii) in sub-section (2), in clause (i), for sub-clause (a), the following sub-clause shall be substituted, namely:—

‘(a) for the existing entry 1, the following entry shall be substituted, namely:—

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|--------------------|----|----|---|---|----|-----|
| “1. Andhra Pradesh | 58 | 20 | 5 | 5 | 20 | 8”. |

Sd/-

Dr. SANJAY SINGH ,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 6th October, 2015.

No. RPB/446-2015/Act-14-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 13th May, 2015, Vaishakh 23, 1937 (Saka)

The following Act of Parliament has received the assent of the President on the 12th May, 2015 is hereby published for general information :-

THE REGIONAL RURAL BANKS (AMENDMENT) ACT, 2015

AN

(Act No. 14 of 2015.)

ACT

[12th May, 2015.]

further to amend the Regional Rural Banks Act, 1976.

Bt it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Regional Rural Banks (Amendment) Act, 2015.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

21 of 1976

2. In the Regional Rural Banks Act, 1976 (hereinafter referred to as the principal Act), in section 3, in sub-section (3), in clause (c),—

Amendment of
section 3.

(a) the words "during the first five years of its functioning" shall be omitted;

(b) the proviso shall be omitted.

Amendment
of section 5.

3. In the principal Act, in section 5,—

(a) for the words “five crores of rupees divided into five lakhs of fully paid-up shares of one hundred rupees each”, the words “two thousand crore of rupees, divided into two hundred crore of fully paid-up shares of ten rupees each” shall be substituted;

(b) in the proviso, for the words “twenty-five lakhs of rupees, and the shares shall be, in all cases, fully paid-up shares of one hundred rupees each”, the words “one crore of rupees, and the shares shall be, in all cases, fully paid-up shares of ten rupees each” shall be substituted.

Amendment
of section 6.

4. In the principal Act, in section 6,—

(a) in sub-section (1), for the words “twenty-five lakhs of rupees or exceed one crore of rupees”, the words “one crore of rupees” shall be substituted;

(b) in sub-section (2), the following provisos shall be inserted, namely:—

“Provided that in case the Regional Rural Bank raises its capital from sources other than the Central Government or the State Government or the Sponsor Bank, the shareholding of the Central Government and the Sponsor Bank shall not be less than fifty-one per cent.:

Provided further that the Central Government shall consult the concerned State Government if the level of shareholding in the Regional Rural Bank of such State Government is reduced below fifteen per cent.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Central Government may, in consultation with the Sponsor Bank and the State Government, by notification, either raise or reduce the limit of shareholding of the Central Government, the State Government or the Sponsor Bank specified in sub-section (2):

Provided that the Central Government shall consult the concerned State Government before reducing the limit of shareholding of such State Government.”;

(d) in sub-section (3), after the words, brackets and figure “as is specified in sub-section (2)”, the words, brackets, figure and letter “or, as the case may be, notified by the Central Government under sub-section (2A)” shall be inserted.

Amendment
of section 9.

5. In the principal Act, in section 9, in sub-section (1),—

(a) in clause (a), the following proviso shall be inserted, namely:—

“Provided that no person shall be nominated as a director, if he is already a director on the Board of any other Regional Rural Bank;”;

(b) after clause (e), the following clause shall be inserted, namely:—

“(f) such number of directors elected by the shareholders other than the directors nominated by the Central Government, the State Government, the Sponsor Bank and other institutions owned or controlled by the Central Government or the State Government, whose names are entered in the register of shareholders of the Regional Rural Bank at least ninety days before the date of the meeting in which the election of directors takes place on the following basis, namely:—

(i) where the total amount of equity share capital issued to such shareholders is ten per cent. or less of the total issued equity capital, one director shall be elected from such shareholders;

(ii) where the total amount of equity share capital issued to such shareholders is more than ten per cent. but less than twenty-five per cent. of the total issued equity capital, two directors shall be elected from the shareholders including the shareholders referred to in sub-clause (i);

(iii) where the total amount of equity share capital issued to such shareholders is twenty-five per cent. or more of the total issued equity capital, three directors shall be elected from the shareholders including shareholders referred to in sub-clauses (i) and (ii).";

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Central Government may appoint an officer of the Central Government on the Board of Regional Rural Banks, if it considers necessary for the purposes of effective functioning of the Regional Rural Banks.”.

6. In the principal Act, for section 10, the following section shall be substituted, namely:—

Substitution
of new
section for
section 10.

“10. A director nominated under clause (a) of sub-section (1) of section 9 shall hold office during the pleasure of the Central Government and for such term, not exceeding three years, from the date on which he assumes his office, as the Central Government may specify at the time of his nomination and shall be eligible for renomination:

Term of
office of
director.

Provided that no such director shall hold office either continuously or intermittently for a period exceeding six years.”.

7. In the principal Act, in section 19, in sub-section (1), for the figures, letters and words “31st day of December”, the figures, letters and words “31st day of March” shall be substituted.

Amendment
of section 19.

Sd/-

Dr. SANJAY SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY
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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 7th October, 2015.

No. RPB/463-2015/Act-16-15/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 13th May, 2015, Vaishakh 23, 1937 (Saka)

The following Act of Parliament has received the assent of the President on the 13th May, 2015 is hereby published for general information :-

THE WAREHOUSING CORPORATIONS (AMENDMENT) ACT, 2015

AN

(Act No. 16 of 2015.)

ACT

[13th May, 2015.]

further to amend the Warehousing Corporations Act, 1962

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

- | | | |
|-------------|---|---|
| | 1. This Act may be called the Warehousing Corporations (Amendment) Act, 2015 | Short title |
| 58 of 1962 | 2. In the Warehousing Corporations Act, 1962 (hereinafter referred to as the Principal Act), for section 5, the following section shall be substituted, namely :- | Substitution of new section for section 5 |
| | "5, Notwithstanding anything contained in the Acts mentioned in this section, the shares of the Central Warehousing Corporation shall be deemed to be :- | Certain shares to be approved securities. |
| 2 of 1882. | (a) included among other securities enumerated in section 20 of the Indian Trusts Act, 1882; and | |
| 4 of 1938 | (b) the approved securities for the purposes of the Insurance Act, 1938 and | |
| 10 of 1949. | the Banking Regulation Act, 1949." | |

Amendment
of section
27.

3. In the principal Act, in section 27, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The bonds and debentures of a State Warehousing Corporation may be guaranteed by the appropriate Government on the recommendation of the Board of Directors of the State Warehousing Corporation at the time such bonds or debentures are issued."

Amendment
of section
30.

4. In the principal Act, in section 30, in sub-section (2), the proviso shall be omitted.

Amendment
of section
31.

5. In the principal Act, in Section 31, in sub-section (8), the proviso shall be omitted.

Amendment
of section
39.

6. In the principal Act, in section 39, both the provisos shall be omitted.

Sd/-

Dr. SANJAY SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 12th October, 2015.

No. RPB/463-2015/Act-18-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 13th May, 2015, Vaishakh 23, 1937 (Saka)

The following Act of Parliament has received the assent of the President on the 13th May, 2015 is hereby published for general information :-

THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) ACT, 2015

AN

(Act No. 18 of 2015.)

ACT

[13th May, 2015.]

to amend the Payment and Settlement Systems Act, 2007.

BE it enacted by Parliament in the Sixty-Sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment and Settlement Systems (Amendment) Act, 2015.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act, and any reference to the commencement in any such provision of this Act shall be construed as a reference to the commencement of that provision.

Amendment of
section 2.

2. In section 2 of the Payment and Settlement Systems Act, 2007 (hereinafter referred to as the principal Act),—

51 of 2007.

(i) after clause (d), the following clauses shall be inserted, namely:—

‘(da) “issuer” means a person who issues a legal entity identifier or such other unique identification (by whatever name called), as may be specified by the Reserve Bank from time to time;

(db) “legal entity identifier” means a unique identity code assigned to a person by an issuer for the purpose of identifying that person in such derivatives or financial transactions, as may be specified by the Reserve Bank from time to time;’;

(ii) after clause (q), the following clause shall be inserted, namely:—

‘(r) “trade repository” means a person who is engaged in the business of collecting, collating, storing, maintaining, processing or disseminating electronic records or data relating to such derivatives or financial transactions, as may be specified by the Reserve Bank from time to time.’.

Amendment
of section 23.

3. In section 23 of the principal Act,—

(i) in sub-section (1), after the words “to a payment system” occurring at the end, the words and figure “under section 7, or, such gross or netting procedure as may be approved by it under any other provisions of this Act” shall be inserted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Where, by an order of a court, Tribunal or authority—

(a) a system participant is declared as insolvent or is dissolved or wound up; or

(b) a liquidator or receiver or assignee (by whatever name called), whether provisional or otherwise, is appointed in a proceeding relating to insolvency or dissolution or winding up of a system participant,

then, notwithstanding anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, such order shall not affect any settlement that has become final and irrevocable prior to such order or immediately thereafter, and the right of the system provider to appropriate any collaterals contributed by the system participants towards its settlement or other obligations in accordance with the rules, regulations or bye-laws relating to such system provider.”;

10 of 1949.
1 of 1956.
18 of 2013.

(iii) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Where an order referred to in sub-section (4) is made with respect to a central counter party, then, notwithstanding such order or anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, the payment obligations and settlement instructions between the central counter party and the system participants including those arising from transactions admitted for settlement at a future date, shall be determined forthwith by such central counter party in accordance with the gross or netting procedure, as the case may be, approved by the Reserve Bank, while issuing authorisation or under any other provisions of this Act, and such determination shall be final and irrevocable.

10 of 1949.
1 of 1956.
18 of 2013.

(6) Notwithstanding anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, the liquidator or receiver or assignee (by whatever name called) of the central counter party, whether appointed as provisional or otherwise, shall—

10 of 1949.
1 of 1956.
18 of 2013.

(a) not re-open any determination that has become final and irrevocable;

(b) after appropriating in accordance with the rules, regulations or bye-laws of the central counter party, the collaterals provided by the system participants towards their settlement or other obligations, return the collaterals held in excess to the system participants concerned.”;

(iv) the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1*, as so numbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation 2.*—For the purposes of this section, the expression “central counter party” means a system provider who by way of novation interposes between system participants in the transactions admitted for settlement, thereby becoming the buyer to every seller and the seller to every buyer, for the purpose of effecting settlement of their transactions.’

4. After section 23 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
23A.

‘23A. (1) The Reserve Bank may, in public interest or in the interest of the customers of designated payment systems or to prevent the affairs of such designated payment system from being conducted in a manner prejudicial to the interests of its customers, require system provider of such payment system to—

Protection of
funds collected
from customers.

(a) deposit and keep deposited in a separate account or accounts held in a scheduled commercial bank; or

(b) maintain liquid assets in such manner and form as it may specify from time to time,

of an amount equal to such percentage of the amounts collected by the system provider of designated payment system from its customers and remaining outstanding, as may be specified by the Reserve Bank from time to time:

Provided that the Reserve Bank may specify different percentages and the manner and forms for different categories of designated payment systems.

(2) The balance held in the account or accounts, referred to in sub-section (1), shall not be utilised for any purpose other than for discharging the liabilities arising on account of the usage of the payment service by the customers or for repaying to the customers or for such other purpose as may be specified by the Reserve Bank from time to time.

(3) Notwithstanding anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, the persons entitled to receive payment under sub-section (2) shall have a first and paramount charge on the balance held in that account and the liquidator or receiver or assignee (by whatever name called) of the system provider of the designated payment system or the scheduled commercial bank concerned, whether appointed as provisional or otherwise, shall not utilise the said balances for any other purposes until all such persons are paid in full or adequate provision is made therefor.

Explanation.—For the purposes of this section, the expressions—

(a) “designated payment system” shall mean a payment system or a class of payment system, as may be specified by the Reserve Bank from time to time, engaged in collection of funds from their customers for rendering payment service;

(b) “scheduled commercial bank” shall mean a “banking company”, “corresponding new bank”, “State Bank of India” and “subsidiary bank” as defined in section 5 of the Banking Regulation Act, 1949 and included in the Second Schedule to the Reserve Bank of India Act, 1934.’

10 of 1949.
1 of 1956.
18 of 2013.

10 of 1949.
1 of 1934.

Insertion of
new section
34A.

5. After section 34 of the principal Act, the following section shall be inserted, namely:—

Act to apply
to designated
trade
repository
and issuer.

‘34A. (1) The provisions of this Act shall apply to, or in relation to, a designated trade repository or issuer, as they apply to, or in relation to, payment systems to the extent applicable, subject to the modification that, throughout this Act, unless the context otherwise requires,—

(a) references to a “payment system” or “system provider” shall be construed as references to a “designated trade repository” or “issuer”, as the case may be;

(b) references to “commencement of this Act” shall be construed with reference to—

(i) a designated trade repository, as references to the date on which a trade repository is specified by the Reserve Bank as a designated trade repository; and

(ii) an issuer, as references to commencement of the Payment and Settlement Systems (Amendment) Act, 2015.

(2) The Reserve Bank may, on an application by a designated trade repository or otherwise, permit or direct the designated trade repository to provide such other services as are deemed necessary from time to time.

Explanation.—For the purposes of this section, the expression “designated trade repository” shall mean a trade repository or a class of trade repositories, as may be specified by the Reserve Bank from time to time.’

Sd/-

Dr. SANJAY SINGH,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar.

Dated the 14th October, 2015.

No. RPB/445-2015/Act-20-15-E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 14th May, 2015/Vaishaka 24, 1937 (Saka)

The following Act of Parliament has received the assent of the President on the 14th May, 2015 is hereby republished for general information :-

THE FINANCE ACT 2015

(Act No. 20 of 2015.)

ACT

[14th May, 2015.]

to give effect to the financial proposals of the Central Government for the financial year 2015-2016.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 2015.

Short title and commencement.

(2) Save as otherwise provided in this Act, section 2 to 79 shall be deemed to have come into force on the 1st day of April, 2015.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2015, income-tax shall be charged at the rates specified in Part 1 of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

Income-tax

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds two lakh fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh fifty thousand rupees”, the words “three lakh rupees” had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh fifty thousand rupees”, the words “five lakh rupees” had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be: 43 of 1961.

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E, 115JB or 115JC of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act,

or co-operative society or firm or local authority, at the rate of ten per cent. of such income-tax, where the total income exceeds one crore rupees;

(b) in the case of every domestic company,—

(i) at the rate of five per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of ten per cent. of such income-tax, where the total income exceeds ten crore rupees;

(c) in the case of every company, other than a domestic company,—

(i) at the rate of two per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such income-tax, where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a), having total income chargeable to tax under section 115JC of the Income-tax Act and such income exceeds one crore rupees, the total amount payable as income-tax on such income and surcharge thereon shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or section 115QA or sub-section (2) of section 115R or section 115TA of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of twelve per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 192A, 194C, 194DA, 194E, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194J, 194LA, 194LB, 194LBA, 194LBB, 194LC, 194LD, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, calculated—

(i) at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E, 115JB and 115JC of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, or co-operative society or firm or local authority, calculated at the rate of twelve per cent. of such "advance tax", where the total income exceeds one crore rupees;

(b) in the case of every domestic company, calculated,—

(i) at the rate of seven per cent. of such “advance tax”, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of twelve per cent. of such “advance tax”, where the total income exceeds ten crore rupees;

(c) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such “advance tax”, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such “advance tax”, where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a) above, having total income chargeable to tax under section 115JC of the Income-tax Act and such income exceeds one crore rupees, the total amount payable as “advance tax” on such income and surcharge thereon shall not exceed the total amount payable as “advance tax” on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as “advance tax” on such income and surcharge thereon, shall not exceed the total amount payable as “advance tax” on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as “advance tax” on such income and surcharge thereon, shall not exceed the total amount payable as “advance tax” and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds two lakh fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the “advance tax” payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, “advance tax” in respect of the total income; and

(b) such income-tax or, as the case may be, “advance tax” shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or “advance tax” shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax or “advance tax” shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or “advance tax” determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, “advance tax” determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, “advance tax” in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "three lakh rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule; the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "five lakh rupees" had been substituted:

Provided also that the amount of income-tax or "advance tax" so arrived at, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2015, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES.

Income-tax

3. In section 2 of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment of
section 2.

(a) for clause (13A), the following clause shall be substituted, namely:—

“(13A) “business trust” means a trust registered as,—

(i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or

(ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and

the units of which are required to be listed on recognised stock exchange in accordance with the aforesaid regulations;”;

(b) in clause (15),—

(i) after the word “education,” the word “yoga,” shall be inserted;

(ii) for the first and the second provisos, the following proviso shall be substituted, namely:—

“Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent. of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;”;

(c) in clause (24), after sub-clause (xvii), the following sub-clause shall be inserted, namely:—

“(xviii) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of *Explanation 10* to clause (1) of section 43;”;

(d) in clause (37A), in sub-clause (iii), after the words “for the purposes of deduction of tax under”, the words, figures and letters “section 194LBA or” shall be inserted;

(e) in clause (42A), in the *Explanation 1*, in clause (i), after sub-clause (hc), the following sub-clauses shall be inserted, namely:—

“(hd) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, there shall be included the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee;

15 of 1992.

15 of 1992.

(he) in the case of a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in clause (b) of sub-section (1) of section 115AC held by such assessee, the period shall be reckoned from the date on which a request for such redemption was made;”.

Amendment
of section 6.

4. In section 6 of the Income-tax Act,—

(i) in clause (1), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*—For the purposes of this clause, in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.”;

(ii) for clause (3), the following clause shall be substituted with effect from the 1st day of April, 2016, namely:—

“(3) A company is said to be resident in India in any previous year, if—

(i) it is an Indian company; or

(ii) its place of effective management, in that year, is in India.

Explanation.—For the purposes of this clause “place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole, are in substance made.”.

Amendment
of section 9.

5. In section 9 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2016,—

(A) in clause (i), after *Explanation 5*, the following *Explanations* shall be inserted, namely:—

“*Explanation 6.*—For the purposes of this clause, it is hereby declared that—

(a) the share or interest, referred to in *Explanation 5*, shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date, the value of such assets—

(i) exceeds the amount of ten crore rupees; and

(ii) represents at least fifty per cent. of the value of all the assets owned by the company or entity, as the case may be;

(b) the value of an asset shall be the fair market value as on the specified date, of such asset without reduction of liabilities, if any, in respect of the asset, determined in such manner as may be prescribed;

(c) “accounting period” means each period of twelve months ending with the 31st day of March;

Provided that where a company or an entity, referred to in *Explanation 5*, regularly adopts a period of twelve months ending on a day other than the 31st day of March for the purpose of—

(i) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or

(ii) reporting to persons holding the share or interest, then, the period of twelve months ending with the other day shall be the accounting period of the company or, as the case may be, the entity:

Provided further that the first accounting period of the company or, as the case may be, the entity shall begin from the date of its registration or incorporation and end with the 31st day of March or such other day, as the case may be, following the date of such registration or incorporation, and the later accounting period shall be the successive periods of twelve months:

Provided also that if the company or the entity ceases to exist before the end of accounting period, as aforesaid, then, the accounting period shall end immediately before the company or, as the case may be, the entity, ceases to exist;

(d) "specified date" means the—

(i) date on which the accounting period of the company or, as the case may be, the entity ends preceding the date of transfer of a share or an interest; or

(ii) date of transfer, if the book value of the assets of the company or, as the case may be, the entity on the date of transfer exceeds the book value of the assets as on the date referred to in sub-clause (i), by fifteen per cent:

Explanation 7.— For the purposes of this clause,—

(a) no income shall be deemed to accrue or arise to a non-resident from transfer, outside India, of any share of, or interest in, a company or an entity, registered or incorporated outside India, referred to in the *Explanation 5*,—

(i) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or

(ii) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds any right in, or in relation to, such company or entity which would entitle him to the right of management or control in the company or entity that directly owns the assets situated in India, nor holds such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital or total interest, as the case may be, of the company or entity that directly owns the assets situated in India;

(b) in a case where all the assets owned, directly or indirectly, by a company or, as the case may be, an entity referred to in the *Explanation 5*, are not located in India, the income of the non-resident transferor, from transfer outside India of a share of, or interest in, such company or entity, deemed to accrue or arise in India under this clause, shall be only

such part of the income as is reasonably attributable to assets located in India and determined in such manner as may be prescribed;

(c) "associated enterprise" shall have the meaning assigned to it in section 92A;";

(B) in clause (v), after sub-clause (c), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this clause,—

(a) it is hereby declared that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly;

(b) "permanent establishment" shall have the meaning assigned to it in clause (iia) of section 92F;".

6. After section 9 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:—

'9A. (1) Notwithstanding anything contained in sub-section (1) of section 9 and subject to the provisions of this section, in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

(2) Notwithstanding anything contained in section 6, an eligible investment fund shall not be said to be resident in India for the purpose of that section merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India.

(3) The eligible investment fund referred to in sub-section (1), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:—

(a) the fund is not a person resident in India;

(b) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into;

(c) the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed five per cent. of the corpus of the fund;

(d) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;

(e) the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;

(f) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent.;

Insertion of
new section
9A.

Certain
activities not
to constitute
business
connection in
India.

(g) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent.;

(h) the fund shall not invest more than twenty per cent. of its corpus in any entity;

(i) the fund shall not make any investment in its associate entity;

(j) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees;

Provided that if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year;

(k) the fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;

(l) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;

(m) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity:

Provided that the conditions specified in clauses (e), (f) and (g) shall not apply in case of an investment fund set up by the Government or the Central Bank of a foreign State or a sovereign fund, or such other fund as the Central Government may subject to conditions if any, by notification in the Official Gazette, specify in this behalf.

(4) The eligible fund manager, in respect of an eligible investment fund, means any person who is engaged in the activity of fund management and fulfils the following conditions, namely:—

(a) the person is not an employee of the eligible investment fund or a connected person of the fund;

(b) the person is registered as a fund manager or an investment advisor in accordance with the specified regulations;

(c) the person is acting in the ordinary course of his business as a fund manager;

(d) the person along with his connected persons shall not be entitled, directly or indirectly, to more than twenty per cent. of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.

(5) Every eligible investment fund shall, in respect of its activities in a financial year, furnish within ninety days from the end of the financial year, a statement in the prescribed form, to the prescribed income-tax authority containing information relating to the fulfilment of the conditions specified in this section and also provide such other relevant information or documents as may be prescribed.

(6) Nothing contained in this section shall apply to exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not.

(7) Nothing contained in this section shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager.

(8) The provisions of this section shall be applied in accordance with such guidelines and in such manner as the Board may prescribe in this behalf.

(9) For the purposes of this section,—

(a) “associate” means an entity in which a director or a trustee or a partner or a member or a fund manager of the investment fund or a director or a trustee or a partner or a member of the fund manager of such fund, holds, either individually or collectively, share or interest, being more than fifteen per cent. of its share capital or interest, as the case may be;

(b) “connected person” shall have the meaning assigned to it in clause (4) of section 102;

(c) “corpus” means the total amount of funds raised for the purpose of investment by the eligible investment fund as on a particular date;

(d) “entity” means any entity in which an eligible investment fund makes an investment;

(e) “specified regulations” means the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 or the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, or such other regulations made under the Securities and Exchange Board of India Act, 1992, which may be notified by the Central Government under this clause.’ 15 of 1992.

Amendment of
section 10.

7. In section 10 of the Income-tax Act,—

(I) after clause (11), the following clause shall be inserted, namely:—

“(11A) any payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873;”;

5 of 1873.

(II) in clause (23C), after sub-clause (iiia), the following sub-clauses shall be inserted, namely:—

“(iiiaa) the Swachh Bharat Kosh, set up by the Central Government; or

(iiiaaa) the Glean Ganga Fund, set up by the Central Government; or”;

(III) with effect from the 1st day of April, 2016—

(a) after clause (23ED), the following clause shall be inserted, namely:—

“(23EE) any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

Explanation.—For the purposes of this clause,—

(i) “recognised clearing corporation” shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation 2 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 “and the Securities Contracts (Regulation) Act, 1956”.

15 of 1992.

42 of 1956.

(ii) “regulations” means the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 “and the Securities Contracts (Regulation) Act, 1956”.

15 of 1992.

42 of 1956.

(iii) “specified income” shall mean,—

(a) the income by way of contribution received from specified persons;

(b) the income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; or

(c) the income from investment made by the Fund;

(iv) "specified person" shall mean,—

(a) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund; and

(b) any recognised stock exchange, being a shareholder in such recognised clearing corporation, or a contributor to the Core Settlement Guarantee Fund; and

(c) any clearing member contributing to the Core Settlement Guarantee Fund;';

(b) in clause (23FB), before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that nothing contained in this clause shall apply in respect of any income of a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the *Explanation* 1 to section 115UB, of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2016;";

(c) after clause (23FB), the following clauses shall be inserted, namely:—

'(23FBA) any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession";

(23FBB) any income referred to in section 115UB, accruing or arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession".

Explanation.—For the purposes of clauses (23FBA) and (23FBB), the expression "investment fund" shall have the meaning assigned to it in clause (a) of the *Explanation* 1 to section 115UB;";

(d) after clause (23FC), the following clause shall be inserted, namely:—

'(23FCA) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.

Explanation.—For the purposes of this clause, the expression "real estate asset" shall have the same meaning as assigned to it in clause (z) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992;";

(e) in clause (23FD), after the word, brackets, figures and letters "clause (23FC)", the words, brackets, figures and letters "or clause (23FCA)" shall be inserted;

(f) in clause (38), the second proviso shall be omitted.

8. In section 11 of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment
of section 11.

(I) in sub-section (1), in *Explanation*, in clause (2), after sub-clause (b), in the long line, for the brackets, words and figures "(such option to be exercised in writing before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income)", the brackets, words and figures "(such option to be exercised before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed)" shall be substituted;

(II) in sub-section (2), for clauses (a) and (b) and the first and second provisos, the following shall be substituted, namely:—

"(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the

income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.”.

Amendment
of section 13.

9. In section 13 of the Income-tax Act, after sub-section (8) and before *Explanation 1*, the following sub-section shall be inserted with effect from the 1st day of April, 2016, namely:—

“(9) Nothing contained in sub-section (2) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—

(i) the statement referred to in clause (a) of the said sub-section in respect of such income is not furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year; or

(ii) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the said previous year.”.

Amendment
of section 32.

10. In section 32 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2016,—

(a) in clause (ii),—

(A) in the second proviso, after the words, brackets, figures and letter “asset referred to in clause (i) or clause (ii) or clause (iia)”, the words, brackets, figures and letter “or the first proviso to clause (iia)” shall be inserted;

(B) after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that where an asset referred to in clause (iia) or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year, and the deduction under this sub-section in respect of such asset is restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (iia) for that previous year, then, the deduction for the balance fifty per cent. of the amount calculated at the percentage prescribed for such asset under clause (iia) shall be allowed under this sub-section in the immediately succeeding previous year in respect of such asset;”;

(b) in clause (iia),—

(A) in the proviso, for the word “Provided”, the words “Provided further” shall be substituted;

(B) before the proviso, the following proviso shall be inserted, namely:—

“Provided that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the

Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (iia) shall have effect, as if for the words "twenty per cent.", the words "thirty-five per cent." had been substituted."

11. After section 32AC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:—

Insertion of
new section
32AD.

'32AD. (1) Where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new asset for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, there shall be allowed a deduction of a sum equal to fifteen per cent. of the actual cost of such new asset for the assessment year relevant to the previous year in which such new asset is installed.

Investment in
new plant or
machinery in
notified
backward areas
in certain
States.

(2) If any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger or reorganisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (1) in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

(3) Where the new asset is sold or otherwise transferred in connection with the amalgamation or demerger or reorganisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47 within a period of five years from the date of its installation, the provisions of sub-section (2) shall apply to the amalgamated company or the resulting company or the successor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, as the case may be, as they would have applied to the amalgamating company or the demerged company or the predecessor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47.

(4) For the purposes of this section, "new asset" means any new plant or machinery (other than a ship or aircraft) but does not include—

(a) any plant or machinery, which before its installation by the assessee, was used either within or outside India by any other person;

(b) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(c) any office appliances including computers or computer software;

(d) any vehicle; or

(e) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

12. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment of
section 35.

(i) in sub-section (2AA), in the proviso, after the words "submit its report to the", the words "Principal Chief Commissioner or Chief Commissioner or" shall be inserted;

(ii) in sub-section (2AB),—

(a) in clause (3), for the words “for audit of accounts maintained for that facility”, the words “fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed” shall be substituted;

(b) in clause (4), after the words “approval of the said facility to the”, the words “Principal Chief Commissioner or Chief Commissioner or” shall be inserted.

Amendment of
section 36.

13. In section 36 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2016,—

(a) in clause (iii), in the proviso, the words “for extension of existing business or profession” shall be omitted;

(b) in clause (vii), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (2) of section 145 without recording the same in the accounts, then, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.”;

(c) after clause (xvi), the following clause shall be inserted, namely:—

“(xvii) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government.”

Amendment of
section 47.

14. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2016,—

(a) after clause (viii), the following clause shall be inserted, namely:—

“(viii) any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in the *Explanation 5* to clause (i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—

(A) at least twenty-five per cent. of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(B) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated.”;

(b) after clause (viii), the following clause shall be inserted, namely:—

“(viii) any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in the *Explanation 5* to clause (i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if—

(a) the shareholders, holding not less than three-fourths in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

(b) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated:

1 of 1956.

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause;”;

(c) after clause (xvii), the following clause shall be inserted, namely:—

“(xviii) any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund:

Provided that the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund.

Explanation.— For the purposes of this clause,—

(a) “consolidated scheme” means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;

(b) “consolidating scheme” means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(c) “equity oriented fund” shall have the meaning assigned to it in clause (38) of section 10;

(d) “mutual fund” means a mutual fund specified under clause (23D) of section 10.’.

15. In section 49 of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment
of section 49.

(I) in sub-section (1), in clause (iii), in sub-clause (e), for the words, brackets, figures and letters “or clause (viaa) or clause (vica) or clause (vicb)”, the words, brackets, figures and letters “or clause (viaa) or clause (viab) or clause (vib) or clause (vica) or clause (vicb) or clause (vice)” shall be substituted;

(II) after sub-section (2AB), the following sub-section shall be inserted, namely:—

“(2ABB) Where the capital asset, being share or shares of a company, is acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in clause (b) of sub-section (1) of section 115AC held by such assessee, the cost of acquisition of the share or shares shall be the price of such share or shares prevailing on any recognised stock exchange on the date on which a request for such redemption was made.

Explanation.—For the purposes of this sub-section, “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of the *Explanation* 1 to sub-section (5) of section 43.’;

(III) after sub-section (2AC), the following sub-section shall be inserted, namely:—

“(2AD) Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.”.

Amendment of
section 80C.

16. In section 80C of the Income-tax Act,—

(I) in sub-section (2), in clause (viii), for the words “as subscription to”, the words, brackets and figure “as subscription, in the name of any person specified in sub-section (4), to” shall be substituted;

(II) in sub-section (4), after clause (b), the following clause shall be inserted, namely:—

“(ba) for the purposes of clause (viii) of that sub-section, in the case of an individual, the individual or any girl child of that individual, or any girl child for whom such person is the legal guardian, if the scheme so specifies;”.

Amendment of
section 80CCC.

17. In section 80CCC of the Income-tax Act, in sub-section (I), for the words “one lakh rupees”, the words “one hundred and fifty thousand rupees” shall be substituted with effect from the 1st day of April, 2016.

Amendment of
section
80CCD.

18. In section 80CCD of the Income-tax Act, with effect from the 1st day of April, 2016,—

(a) sub-section (IA) shall be omitted;

(b) after sub-section (IA), as so omitted the following sub-section shall be inserted, namely:—

“(IB) An assessee referred to in sub-section (I), shall be allowed a deduction in computation of his total income, whether or not any deductions is allowed under sub-section (I), of the whole of the amount paid or deposited in the previous year in his account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees:

Provided that no deduction under this sub-section shall be allowed in respect of the amount on which a deduction has been claimed and allowed under sub-section (I).”;

(c) in sub-section (3),—

(I) for the word, brackets and figure “sub-section (I)”, wherever they occur, the words, brackets, figures and letter “sub-section (I) or sub-section (IB)” shall be substituted;

(II) for the words “under that sub-section”, the words “under those sub-sections” shall be substituted;

(d) in sub-section (4), for the word, brackets and figure “sub-section (I)”, the words, brackets, figures and letter “sub-section (I) or sub-section (IB)” shall be substituted.

Amendment of
section 80D.

19. In section 80D of the Income-tax Act, with effect from the 1st day of April, 2016,—

(A) for the words “fifteen thousand rupees”, wherever they occur the words “twenty-five thousand rupees” shall be substituted;

(B) for the words “twenty thousand rupees”, wherever they occur, the words “thirty thousand rupees” shall be substituted;

(C) in sub-section (2), after clause (b), the following shall be inserted, namely:—

“(c) the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate thirty thousand rupees; and

(d) the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed in the aggregate thirty thousand rupees;

Provided that the amount referred to in clause (c) or clause (d) is paid in respect of a very senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (a) and clause (c) or the aggregate of the sum specified under clause (b) and clause (d) shall not exceed thirty thousand rupees.”;

(D) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1), shall be the aggregate of the following, namely:—

(a) whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate twenty-five thousand rupees; and

(b) the whole of the amount paid on account of medical expenditure incurred on the health of any member of the Hindu undivided family as does not exceed in the aggregate thirty thousand rupees:

Provided that the amount referred to in clause (b) is paid in respect of a very senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (a) and clause (b) shall not exceed thirty thousand rupees.”;

(E) in sub-section (4), —

(i) for the words, brackets and figure “or in sub-section (3)”, the words, brackets, letter and figure “or clause (a) of sub-section (3)” shall be substituted;

(ii) after the words “senior citizen,”, the words “or a very senior citizen,” shall be inserted;

(iii) the *Explanation* shall be omitted;

(F) after sub-section (5), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this section,—

(i) “senior citizen” means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year;

(ii) “very senior citizen” means an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.’

20. In section 80DD of the Income-tax Act, with effect from the 1st day of April, 2016, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section
80DD.

“(1) Where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year,—

(a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of seventy-five thousand rupees from his gross total income in respect of the previous year:

Provided that where such dependant is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "seventy-five thousand rupees", the words "one hundred and twenty-five thousand rupees" had been substituted."

Amendment
of section
80DDB.

21. In section 80DDB of the Income-tax Act, with effect from the 1st day of April, 2016,—

(i) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that no such deduction shall be allowed unless the assessee obtains the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed;"

(ii) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that where the amount actually paid is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is a very senior citizen, the provisions of this section shall have effect as if for the words "forty thousand rupees", the words "eighty thousand rupees" had been substituted.;"

(iii) in the *Explanation*,—

(a) clause (ii) shall be omitted;

(b) after clause (iv), the following clause shall be inserted, namely:—

"(v) "very senior citizen" means an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year."

Amendment of
section 80G.

22. In section 80G of the Income-tax Act,—

(A) in sub-section (1), in clause (i),—

(I) after the words, brackets, figures and letters "sub-clause (iihj) or", the words, brackets, figures and letters "sub-clause (iihk) or sub-clause (iihl) or" shall be inserted;

(II) after the words, brackets, figures and letters "sub-clause (iihl) or", as so inserted, the words, brackets, figures and letters "sub-clause (iihm) or" shall be inserted with effect from the 1st day of April, 2016;

(B) in sub-section (2), in clause (a),—

(I) after sub-clause (iihj), the following sub-clauses shall be inserted, namely:—

"(iihk) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013; or

18 of 2013.

"(iihl) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013; or";

18 of 2013.

(II) the following sub-clause shall be inserted with effect from the 1st day of April, 2016, namely:—

"(iihm) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985; or".

61 of 1985.

23. In section 80JJAA of the Income-tax Act, with effect from the 1st day of April, 2016,—
- (a) in sub-section (1), the words, “being an Indian company,” shall be omitted;
- (b) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—
- “(a) if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;”;
- (c) in the *Explanation*, in clause (i), for the words “one hundred workmen”, the words “fifty workmen” shall be substituted.
24. In section 80U of the Income-tax Act, with effect from the 1st day of April, 2016, for sub-section (1), the following sub-section shall be substituted, namely:—
- “(1) In computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of seventy-five thousand rupees:
- Provided that where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words “seventy-five thousand rupees”, the words “one hundred and twenty-five thousand rupees” had been substituted.”.
25. In section 92BA of the Income-tax Act, for the words “five crore rupees” occurring at the end, the words “twenty crore rupees” shall be substituted with effect from the 1st day of April, 2016.
26. Section 95 of the Income-tax Act shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered and before the *Explanation*, the following sub-section shall be inserted, namely:—
- “(2) This Chapter shall apply in respect of any assessment year beginning on or after the 1st day of April, 2018.”.
27. In section 111A of the Income-tax Act, in sub-section (1), the second proviso shall be omitted with effect from the 1st day of April, 2016.
28. In section 115A of the Income-tax Act, in sub-section (1), in clause (b), with effect from the 1st day of April, 2016,—
- (a) in sub-clause (A), for the words “twenty-five per cent.”, the words “ten per cent.” shall be substituted;
- (b) in sub-clause (B), for the words “twenty-five per cent.”, the words “ten per cent.” shall be substituted.
29. In section 115ACA of the Income-tax Act, after sub-section (3), in the *Explanation*, in clause (a), with effect from the 1st day of April, 2016, for the words “issued to non-resident investors against the issue of ordinary shares or foreign currency convertible bonds of issuing company” occurring at the end, the following shall be substituted, namely:—
- “issued to investors against the issue of,—
- (i) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or
- (ii) foreign currency convertible bonds of issuing company;”.
30. In section 115JB of the Income-tax Act, in the *Explanation 1* below sub-section (2), with effect from the 1st day of April, 2016,—
- (a) after clause (f), the following clauses shall be inserted, namely:—

“(fa) the amount or amounts of expenditure relatable to income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86; or

(fb) the amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,—

(A) the capital gains arising on transactions in securities; or

(B) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (1); or

(fc) the amount representing notional loss on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by the trust referred to in clause (xvii) of section 47 or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in clause (xvii) of section 47; or”;

(b) after clause (j), the following clause shall be inserted, namely:—

“(k) the amount of gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be;”;

(c) after clause (iib), the following clauses shall be inserted, namely:—

“(iic) the amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any, such amount is credited to the profit and loss account; or

(iia) the amount of income accruing or arising to an assessee, being a foreign company, from,—

(A) the capital gains arising on transactions in securities; or

(B) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if such income is credited to the profit and loss account and the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (1); or

(iie) the amount representing,—

(A) notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47; or

(B) notional gain resulting from any change in carrying amount of said units; or

(C) gain on transfer of units referred to in clause (xvii) of section 47, if any, credited to the profit and loss account; or

(iif) the amount of loss on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be; or”;

(d) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

‘*Explanation 4*.—For the purposes of sub-section (2), the expression “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.’

42 of 1956.

31. In section 115U of the Income-tax Act, after sub-section (5), before the *Explanation 1*, the following sub-section shall be inserted with effect from the 1st day of April, 2016, namely:—

Amendment of section 115U.

“(6) Nothing contained in this Chapter shall apply in respect of any income, of a previous year relevant to the assessment year beginning on or after the 1st day of April, 2016, accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the *Explanation 1* to section 115UB.”

32. In section 115UA of the Income-tax Act, in sub-section (3), after the words, brackets, figures and letters “in clause (23FC)”, the words, brackets, figures and letters “or clause (23FCA)” shall be inserted with effect from the 1st day of April, 2016.

Amendment of section 115UA.

33. After Chapter XII-FA of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2016, namely:—

Insertion of new Chapter XII-FB.

‘CHAPTER XII-FB

SPECIAL PROVISIONS RELATING TO TAX ON INCOME OF INVESTMENT FUNDS AND INCOME RECEIVED FROM SUCH FUNDS

115UB. (1) Notwithstanding anything contained in any other provisions of this Act and subject to the provisions of this Chapter, any income accruing or arising to, or received by, a person, being a unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments made by the investment fund been made directly by him.

Tax on income of investment fund and its unit holders.

(2) Where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of clause (23FBA) of section 10] is a loss under any head of income and such loss cannot be or is not wholly set-off against income under any other head of income of the said previous year, then,—

(i) such loss shall be allowed to be carried forward and it shall be set-off by the investment fund in accordance with the provisions of Chapter VI; and

(ii) such loss shall be ignored for the purposes of sub-section (1).

(3) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1), as if it had been received by, or had accrued or arisen to, the investment fund during the previous year subject to the provisions of sub-section (2).

(4) The total income of the investment fund shall be charged to tax—

(i) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or

(ii) at maximum marginal rate in any other case.

(5) The provisions of Chapter XII-D or Chapter XII-E shall not apply to the income paid by an investment fund under this Chapter.

(6) The income accruing or arising to, or received by, the investment fund, during a previous year, if not paid or credited to the person referred to in sub-section (1), shall subject to the provisions of sub-section (2), be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(7) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

Explanation 1.—For the purposes of this Chapter,—

(a) “investment fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(b) “trust” means a trust established under the Indian Trusts Act, 1882 or under any other law for the time being in force;

2 of 1882.

(c) “unit” means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

Explanation 2.—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (1) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the investment fund.’

Amendment
of section
132B.

34. In section 132B of the Income-tax Act, in sub-section (1), in clause (i), with effect from the 1st day of June, 2015, for the words “deemed to be in default, may be recovered out of such assets” occurring at the end, the words, brackets, figures and letter “deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C, may be recovered out of such assets” shall be substituted.

Amendment
of section
139.

35. In section 139 of the Income-tax Act, with effect from the 1st day of April, 2016,—

(1). in sub-section (1),—

(A) for fourth proviso, the following provisos shall be substituted, namely:—

“Provided also that a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6, who is not required to furnish a return under this sub-section and who at any time during the previous year,—

(a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(b) is a beneficiary of any asset (including any financial interest in any entity) located outside India,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed:

Provided also that nothing contained in the fourth proviso shall apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred to in clause (a) of that proviso in accordance with the provisions of this Act.”;

(B) after *Explanation 3*, the following *Explanations* shall be inserted, namely:—

Explanation 4. — For the purposes of this section “beneficial owner” in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.

Explanation 5. — For the purposes of this section “beneficiary” in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.”;

(II) in sub-section (4C), in clause (e),—

(a) after the words “other educational institution referred to in”, the words, brackets, figures and letters “sub-clause (iiab) or” shall be inserted;

(b) after the words “other medical institution referred to in”, the words, brackets, figures and letters “sub-clause (iiac) or” shall be inserted;

(III) after sub-section (4E), the following sub-section shall be inserted, namely:—

“(4F) Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (I).”;

(IV) in sub-section (6), for the words “assets of the prescribed nature, value and belonging to him”, the words “assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary” shall be substituted.

36. For section 151 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2015, namely:—

Substitution of new section for section 151. Sanction for issue of notice.

“151. (1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.”.

Amendment
of section
153C.

37. In section 153C of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015, for the portion beginning with the words and figures “Notwithstanding anything contained in section 139” and ending with the words “the Assessing Officer having jurisdiction over such other person”, the words, figures, brackets and letters “Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person” shall be substituted.

Amendment
of section
154.

38. In section 154 of the Income-tax Act, with effect from the 1st day of June, 2015,—

(i) in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

“(d) amend any intimation under sub-section (1) of section 206CB.”;

(ii) in sub-section (2), in clause (b), after the words “or by the deductor”, the words “or by the collector” shall be inserted;

(iii) in sub-section (3), after the words “or the deductor” wherever they occur, the words “or the collector” shall be inserted;

(iv) in sub-section (5), after the words “or the deductor” at both the places where they occur, the words “or the collector” shall be inserted;

(v) in sub-section (6), after the words “or the deductor” at both the places where they occur, the words “or the collector” shall be inserted;

(vi) in sub-section (8), after the words “or by the deductor”, the words “or by the collector” shall be inserted.

Amendment of
section 156.

39. In section 156 of the Income-tax Act, in the proviso, with effect from the 1st day of June, 2015, for the words, brackets, figures and letter “by the deductor under sub-section (1) of section 143 or sub-section (1) of section 200A”, the words, brackets, figures and letters “the deductor or the collector under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB” shall be substituted.

Insertion of
new section
158AA.
Procedure
when in an
appeal by
revenue an
identical
question of law
is pending
before Supreme
Court.

40. After section 158A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—

“158AA. (1) Notwithstanding anything contained in this Act, where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee for any assessment year (such case being herein referred to as relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court, in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the High Court in favour of the assessee (such case being herein referred to as the other case), he may, instead of directing the Assessing Officer to appeal to the Appellate Tribunal under sub-section (2) or sub-section (2A) of

section 253, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of the order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.

(2) The Commissioner or Principal Commissioner shall direct the Assessing Officer to make an application under sub-section (1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received, the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in sub-section (2) or sub-section (2A) of section 253.

(3) Where the order of the Commissioner (Appeals) referred to in sub-section (1) is not in conformity with the final decision on the question of law in the other case, the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order and save as otherwise provided in this section all other provisions of Part B of Chapter XX shall apply accordingly.

(4) Every appeal under sub-section (3) shall be filed within sixty days from the date on which the order of the Supreme Court in the other case is communicated to the Commissioner or Principal Commissioner.

41. In section 192 of the Income-tax Act, after sub-section (2C), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:—

Amendment of section 192.

“(2D) The person responsible for making the payment referred to in sub-section (1) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.”.

42. After section 192 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—

Insertion of new section 192A.

“192A. Notwithstanding anything contained in this Act, the trustees of the Employees' Provident Fund Scheme, 1952, framed under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent.:

Payment of accumulated balance due to an employee.

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than thirty thousand rupees:

Provided further that any person entitled to receive any amount on which tax is deductible under this section shall furnish his permanent account number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.”.

43. In section 194A of the Income-tax Act, in sub-section (3), with effect from the 1st day of June, 2015,—

Amendment of section 194A.

(a) in clause (i), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as

the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions;”;

(b) in clause (v), for the words “paid by a co-operative society to a member thereof or”, the words and brackets “paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society” shall be substituted;

(c) after clause (v), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this clause, “co-operative bank” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949;’

10 of 1949.

(d) for clause (ix), the following clauses shall be substituted, namely:—

“(ix) to such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

(ixa) to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;”;

(e) in *Explanation 1* below clause (xi), for the word “excluding”, the word “including” shall be substituted.

Amendment
of section
194C.

44. In section 194C of the Income-tax Act, in sub-section (6), with effect from the 1st day of June, 2015, for the words “on furnishing of”, the words “where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with” shall be substituted.

Amendment
of section
194-I.

45. In section 194-I of the Income-tax Act, with effect from the 1st day of June, 2015, after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that no deduction shall be made under this section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.”.

Amendment
of section
194LBA.

46. In section 194LBA of the Income-tax Act, with effect from the 1st day of June, 2015,—

(a) in sub-section (1), after the words, brackets, figures and letters “in clause (23FC)”, the words, brackets, figures and letters “or clause (23FCA)” shall be inserted;

(b) in sub-section (2), for the words “being a non-resident, not being a company”, the words and brackets “being a non-resident (not being a company)” shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder, being a non-resident (not being a company), or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.”.

Insertion of
new section
194LBB.

Income in
respect of
units of
investment
fund.

47. After section 194LBA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—

‘194LBB. Where any income, other than that proportion of income which is of the same nature as income referred to in clause (23FBB) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the

Explanation 1 to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

Explanation.—For the purposes of this section,—

(a) “unit” shall have the meaning assigned to it in clause (c) of the *Explanation 1* to section 115UB;

(b) where any income as aforesaid is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.”

48. In section 194LD of the Income-tax Act, in sub-section (2), with effect from the 1st day of June, 2015, for the figures, letters and words “1st day of June, 2015”, the figures, letters and words “1st day of July, 2017” shall be substituted. Amendment of section 194LD.

49. In section 195 of the Income-tax Act, for sub-section (6), the following sub-section shall be substituted with effect from the 1st day of June, 2015, namely:— Amendment of section 195.

“(6) The person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.”

50. In section 197A of the Income-tax Act, with effect from the 1st day of June, 2015,— Amendment of section 197A.

(i) in sub-section (1A), for the words, figures and letter “section 193 or section 194A” at both the places where they occur, the words, figures and letters “section 192A or section 193 or section 194A or section 194DA” shall respectively be substituted;

(ii) in sub-section (1C), for the words, figures and letter “section 193 or section 194 or section 194A” at both the places where they occur, the words, figures and letters “section 192A or section 193 or section 194 or section 194A or section 194DA” shall respectively be substituted.

51. In section 200 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:— Amendment of section 200.

“(2A) In case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.”

52. In section 200A of the Income-tax Act, in sub-section (1), for clauses (c) to (e), the following clauses shall be substituted with effect from the 1st day of June, 2015, namely:— Amendment of section 200A.

“(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor.”

Amendment of
section 203A.

53. In section 203A of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:—

“(3) The provisions of this section shall not apply to such person, as may be notified by the Central Government in this behalf.”

Amendment
of section
206C.

54. In section 206C of the Income-tax Act, after sub-section (3), the following sub-sections shall be inserted with effect from the 1st day of June, 2015, namely:—

“(3A) In case of an office of the Government, where the amount collected under sub-section (1) or sub-section (1C) or sub-section (1D) has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

(3B) The person referred to in the proviso to sub-section (3) may also deliver to the prescribed authority under the said proviso, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under the said proviso in such form and verified in such manner, as may be specified by the authority.”

Insertion of
new section
206CB.
Processing of
statements of
tax collected
at source.

55. After section 206CA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—

“206CB. (1) Where a statement of tax collection at source or a correction statement has been made by a person collecting any sum (herein referred to as collector) under section 206C, such statement shall be processed in the following manner, namely:—

(a) the sums collectible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement;

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums collectible as computed in the statement;

(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the collector, shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 206C or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the collector specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the collector in pursuance of the determination under clause (d) shall be granted to the collector:

Provided that no intimation under this sub-section shall be sent after the expiry of the period of one year from the end of the financial year in which the statement is filed.

Explanation.—For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(ii) in respect of rate of collection of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) The Board may make a scheme for centralised processing of statements of tax collected at source to expeditiously determine the tax payable by, or the refund due to, the collector, as required under sub-section (1).’

56. In section 220 of the Income-tax Act, after sub-section (2B), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:— Amendment of section 220.

“(2C) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (7) of section 206C on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.”

57. In section 234B of the Income-tax Act, with effect from the 1st day of June, 2015,— Amendment of section 234B.

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) (a) where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section;

(b) where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C;

(c) where, as a result of an order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (b) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) where, as a result of an order of reassessment or recomputation under section 147 or section 153A, the amount on which interest was payable in respect of shortfall in payment of advance tax for any financial year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment or recomputation under section 147 or section 153A, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the regular assessment as referred to in sub-section (1), as the case may be.”;

(iii) in sub-section (4), the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (4) of section 245D" shall be omitted.

Amendment of section 245A.

58. In section 245A of the Income-tax Act, in clause (b), in the *Explanation*, with effect from the 1st day of June, 2015,—

(A) for clause (i), the following clause shall be substituted, namely:—

“(i) a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—

(a) from the date on which a notice under section 148 is issued for any assessment year;

(b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142;”;

(B) in clause (iv), for the words, figure and letters “from the 1st day of the assessment year and concluded on the date on which the assessment is made” occurring at the end, the words and figures “from the date on which the return of income for that assessment year is furnished under section 139 or in response to a notice served under section 142 and concluded on the date on which the assessment is made; or on the expiry of two years from the end of the relevant assessment year, in case where no assessment is made” shall be substituted.

Amendment of section 245D.

59. In section 245D of the Income-tax Act, for sub-section (6B), with effect from the 1st day of June, 2015, the following sub-section shall be substituted, namely:—

“(6B) The Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4)—

(a) at any time within a period of six months from the end of the month in which the order was passed; or

(b) at any time within the period of six months from the end of the month in which an application for rectification has been made by the Principal Commissioner or the Commissioner or the applicant, as the case may be:

Provided that no application for rectification shall be made by the Principal Commissioner or the Commissioner or the applicant after the expiry of six months from the end of the month in which an order under sub-section (4) is passed by the Settlement Commission:

Provided further that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Principal Commissioner or Commissioner of its intention to do so and has allowed the applicant and the Principal Commissioner or Commissioner an opportunity of being heard.”.

Amendment of section 245H.

60. In section 245H of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015, after the words “subject to such conditions as it may think fit to impose”, the words “for the reasons to be recorded in writing” shall be inserted.

Amendment of section 245HA.

61. In section 245HA of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015,—

(A) after clause (iii), the following clause shall be inserted, namely:—

“(iiia) in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed not providing for the terms of settlement; or”;

(B) in the *Explanation*, after clause (c), the following clause shall be inserted, namely:—

“(ca) in respect of an application referred to clause (iia), the day on which the order under sub-section (4) of section 245D was passed not providing for the terms of settlement;”.

62. In section 245K of the Income-tax Act, with effect from the 1st day of June, 2015,—

Amendment
of section
245K.

(A) in sub-section (1), for the words “he shall not be entitled to apply”, the words and brackets “he or any person related to such person (herein referred to as related person) shall not be entitled to apply” shall be substituted;

(B) in sub-section (2), for the words “shall not be subsequently entitled”, the words “or any related person shall not be subsequently entitled” shall be substituted;

(C) after sub-section (2), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this section, “related person” with respect to a person means,—

(i) where such person is an individual, any company in which such person holds more than fifty per cent. of the shares or voting rights at any time, or any firm or association of persons or body of individuals in which such person is entitled to more than fifty per cent. of the profits at any time, or any Hindu undivided family in which such person is a *karta*;

(ii) where such person is a company, any individual who held more than fifty per cent. of the shares or voting rights in such company at any time before the date of application before the Settlement Commission by such person;

(iii) where such person is a firm or association of persons or body of individuals, any individual who was entitled to more than fifty per cent. of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person;

(iv) where such person is a Hindu undivided family, the *karta* of that Hindu undivided family.’.

63. In section 245-O of the Income-tax Act, in sub-section (3), for clause (d), the following clause shall be substituted, namely:—

Amendment
of section
245-O.

“(d) a law Member from the Indian Legal Service, who is, or is qualified to be, an Additional Secretary to the Government of India.”.

64. In section 246A of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015,—

Amendment
of section
246A.

(a) in the opening portion, after the words “or any deductor”, the words “or any collector” shall be inserted;

(b) in clause (a), for the words, brackets, figures and letter “sub-section (1) of section 200A, where the assessee or the deductor”, the words, brackets, figures and letters “sub-section (1) of section 200A or sub-section (1) of section 206CB, where the assessee or the deductor or the collector” shall be substituted.

65. In section 253 of the Income-tax Act, in sub-section (1), after clause (e), the following clause shall be inserted with effect from the 1st day of June, 2015, namely:—

Amendment
of section
253.

“(f) an order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.”.

66. In section 255 of the Income-tax Act, in sub-section (3), with effect from the 1st day of June, 2015, for the words “five hundred thousand rupees”, the words “fifteen lakh rupees” shall be substituted.

Amendment
of section
255.

Amendment
of section
263.

67. In section 263 of the Income-tax Act, in sub-section (1), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted with effect from the 1st day of June, 2015, namely:—

“*Explanation 2.*—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.”

Substitution of
new section for
section 269SS.

68. For section 269SS of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2015, namely:—

Mode of taking
or accepting
certain loans,
deposits and
specified sum.

269SS. No person shall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if,—

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more:

Provided that the provisions of this section shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,—

(a) the Government;

(b) any banking company, post office savings bank or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013;

(e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:

Provided further that the provisions of this section shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agricultural income and neither of them has any income chargeable to tax under this Act.

Explanation.— For the purposes of this section,—

10 of 1949.

(i) “banking company” means a company to which the provisions of the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act;

10 of 1949.

(ii) “co-operative bank” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949;

(iii) “loan or deposit” means loan or deposit of money;

(iv) “specified sum” means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.’

69. In section 269T of the Income-tax Act, with effect from the 1st day of June, 2015,— Amendment of section 269T.

(A) in the opening portion—

(a) after the words “repay any loan or deposit made with it”, the words “or any specified advance received by it” shall be inserted;

(b) after the words “made the loan or deposit”, the words “or paid the specified advance,” shall be inserted;

(B) in clause (a), after the words “loan or deposit”, the words “or specified advance” shall be inserted;

(C) in clause (b), the word “or” shall be inserted at the end;

(D) after clause (b) and before the long line, the following clause shall be inserted, namely:—

“(c) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances,”;

(E) in the second proviso, after the words “any loan or deposit”, the words “or specified advance” shall be inserted;

(F) in the *Explanation*, after clause (iii), the following clause shall be inserted, namely:—

“(iv) “specified advance” means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.’

70. In section 271 of the Income-tax Act, with effect from the 1st day of April, 2016, in sub-section (1), for *Explanation 4*, the following *Explanation* shall be substituted, namely:— Amendment of section 271.

“*Explanation 4.*— For the purposes of clause (iii) of this sub-section,—

(a) the amount of tax sought to be evaded shall be determined in accordance with the following formula—

$$(A - B) + (C - D)$$

where,

A = amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished;

C = amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished:

Provided that where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D:

Provided further that in a case where the provisions contained in section 115JB or section 115JC are not applicable, the item $(C-D)$ in the formula shall be ignored;

(b) where in any case the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the formula specified in clause (a) with the modification that the amount to be determined for item $(A-B)$ in that formula shall be the amount of tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income;

(c) where in any case to which *Explanation 3* applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.”

Amendment of section 271D.

71. In section 271D of the Income-tax Act, in sub-section (I), after the words “loan or deposit” occurring at both the places, the words “or specified sum” shall be inserted with effect from the 1st day of June, 2015.

Amendment of section 271E.

72. In section 271E of the Income-tax Act, in sub-section (I), after the words “loan or deposit” occurring at both the places, the words “or specified advance” shall be inserted with effect from the 1st day of June, 2015.

Insertion of new section 271FAB.

73. After section 271FAA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:—

Penalty for failure to furnish statement or information or document by an eligible investment fund.

“271FAB. If any eligible investment fund which is required to furnish a statement or any information or document, as required under sub-section (5) of section 9A fails to furnish such statement or information or document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum of five hundred thousand rupees.”

Insertion of new section 271GA.

74. After section 271G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:—

Penalty for failure to furnish information or document under section 285A.

“271GA. If any Indian concern, which is required to furnish any information or document under section 285A, fails to do so, the income-tax authority, as may be prescribed under the said section, may direct that such Indian concern shall pay, by way of penalty,—

(i) a sum equal to two per cent. of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of

directly or indirectly transferring the right of management or control in relation to the Indian concern;

(ii) a sum of five hundred thousand rupees in any other case.”.

75. After section 271H of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—

“271-I. If a person, who is required to furnish information under sub-section (6) of section 195, fails to furnish such information; or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.”.

Insertion of new section 271-I.

Penalty for failure to furnish information or furnishing inaccurate information under section 195.

76. In section 272A of the Income-tax Act, in sub-section (2), with effect from the 1st day of June, 2015,—

Amendment of section 272A.

(a) after clause (I), the following clause shall be inserted, namely:—

“(m) to deliver or cause to be delivered a statement within the time as may be prescribed under sub-section (2A) of section 200 or sub-section (3A) of section 206C,”;

(b) in the first proviso, for the words, brackets, figures and letter “statements under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C”, the words, brackets, figures and letters “statements under sub-section (2A) or sub-section (3) of section 200 or the proviso to sub-section (3) or under sub-section (3A) of section 206C” shall be substituted.

77. In section 273B of the Income-tax Act,—

Amendment of section 273B.

(I) for the words, figures and letters “section 271FB, section 271G”, the words, figures and letters “section 271FAB, section 271FB, section 271G, section 271GA” shall be substituted with effect from the 1st day of April, 2016;

(II) after the word, figures and letter “section 271H”, the word, figures and letter “section 271-I,” shall be inserted with effect from the 1st day of June, 2015.

78. After section 285 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:—

Insertion of new section 285A.

“285A. Where any share of, or interest in, a company or an entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India, as referred to in *Explanation 5* to clause (i) of sub-section (1) of section 9, and such company or, as the case may be, entity, holds, directly or indirectly, such assets in India through, or in, an Indian concern, then, such Indian concern shall, for the purposes of determination of any income accruing or arising in India under clause (i) of sub-section (1) of section 9, furnish within the prescribed period to the prescribed income-tax authority the information or documents, in such manner, as may be prescribed.”.

Furnishing of information or documents by an Indian concern in certain cases.

79. In section 288 of the Income-tax Act, with effect from the 1st day of June, 2015,—

Amendment of section 288.

(i) after sub-section (2), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—In this section, “accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include [except for the

purposes of representing the assessee under sub-section (1)]—

(a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013; or

18 of 2013.

(b) in any other case,—

(i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;

(ii) in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;

(iii) in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;

(iv) any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);

(v) an officer or employee of the assessee;

(vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;

(vii) an individual who, or his relative or partner—

(I) is holding any security of, or interest in, the assessee:

Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;

(II) is indebted to the assessee:

Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;

(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:

Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;

(viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;

(ix) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.”;

(ii) in sub-section (4), for the portion beginning with brackets, letter and words “(c) who has become an insolvent,” and ending with the words, brackets and letter “in the case of a person referred to in sub-clause (c)”, the following shall be substituted, namely:—

“(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud, shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in clause (a), for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine in the case of a person referred to in clause (b), for the period during which the insolvency continues in the case of a person referred to in clause (c), and for a period of ten years from the date of conviction in the case of a person referred to in clause (d).”;

(iii) after sub-section (7), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this section, “relative” in relation to an individual, means—

- (a) spouse of the individual;
- (b) brother or sister of the individual;
- (c) brother or sister of the spouse of the individual;
- (d) any lineal ascendant or descendant of the individual;
- (e) any lineal ascendant or descendant of the spouse of the individual;
- (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);
- (g) any lineal descendant of a brother or sister of either the individual or the spouse of the individual.’..

80. In section 295 of the Income-tax Act, in sub-section (2), after clause (h), the following clause shall be inserted with effect from the 1st day of June, 2015, namely:—

Amendment of section 295.

“(ha) the procedure for granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under this Act;”.

Wealth-tax

81. In section 3 of the Wealth-tax Act, 1957, in sub-section (2), with effect from the 1st day of April, 2016, after the words, figures and letters “from the 1st day of April, 1993”, the words, figures and letters “but before the 1st day of April, 2016” shall be inserted.

Amendment of Act 27 of 1957.

CHAPTER IV

INDIRECT TAXES

Customs

52 of 1962.

82. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 28,—

Amendment of section 28.

(a) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.”;

(b) in sub-section (5), for the words “twenty-five per cent.”, the words “fifteen per cent.” shall be substituted;

(c) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Explanation 3.— For the removal of doubts, it is hereby declared that the proceedings in respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (1) or sub-section (4), as the case may be, but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, be deemed to be concluded, if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within thirty days from the date on which such assent is received.”.

Amendment
of section
112.

83. In the Customs Act, in section 112, in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;”.

Amendment
of section
114.

84. In the Customs Act, in section 114, for clause (ii), the following clause shall be substituted, namely:—

“(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;”.

Amendment
of section
127A.

85. In the Customs Act, in section 127A, in clause (b), in the proviso, the words “in any appeal or revision, as the case may be,” shall be omitted.

Amendment
of section
127B.

86. In the Customs Act, in section 127B, sub-section (1A) shall be omitted.

Amendment
of section
127C.

87. In the Customs Act, in section 127C, sub-section (6) shall be omitted.

Omission of
section 127E.

88. In the Customs Act, section 127E shall be omitted.

Amendment
of section
127H.

89. In the Customs Act, in section 127H, in sub-section (1), the *Explanation* shall be omitted.

Amendment
of section
127L.

90. In the Customs Act, in section 127L, in sub-section (1),—

(a) in clause (i), the words, brackets, figures and letters “passed under sub-section (7) of section 127C, as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C” shall be omitted;

22 of 2007.

(b) in clause (ii), the words, brackets, figures and letter “under said sub-section (7), as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C” shall be omitted.

22 of 2007.

Customs Tariff

• Amendment
of First
Schedule.

91. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), the First Schedule shall be amended in the manner specified in the Second Schedule. 51 of 1975.

Central Excise

Amendment
of section 3A.

92. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 3A, after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

‘*Explanation 3*.— For the purposes of sub-sections (2) and (3), the word “factor” includes “factors”.’.

1 of 1944.

93. In the Central Excise Act, in section 11A,—

(i) sub-sections (5), (6) and (7) shall be omitted;

(ii) in sub-sections (7A), (8) and clause (b) of sub-section (11), the words, brackets and figure “or sub-section (5)”, wherever they occur, shall be omitted;

(iii) in *Explanation 1*,—

(A) in clause (b), in sub-clause (ii), the words “on due date” shall be omitted;

(B) after sub-clause (v), the following sub-clause shall be inserted, namely :—

“(vi) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates.”;

(C) clause (c) shall be omitted;

(iv) after sub-section (15), the following sub-section shall be inserted, namely :—

“(16) The provisions of this section shall not apply to a case where the liability of duty not paid or short-paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.”.

(v) for *Explanation 2*, the following *Explanation* shall be substituted, namely :—

“*Explanation 2*.— For the removal of doubts, it is hereby declared that any non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by the provisions of section 11A as amended by the Finance Act, 2015.”;

94. In the Central Excise Act, for section 11AC, the following section shall be substituted, namely:—

Substitution of
new section
for section
11AC.

“11AC. (1) The amount of penalty for non-levy or short-levy or non-payment or short-payment or erroneous refund shall be as follows:—

Penalty for
short-levy or
non-levy of
duty in certain
cases.

(a) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty not exceeding ten per cent. of the duty so determined or rupees five thousand, whichever is higher:

Provided that where such duty and interest payable under section 11AA is paid either before the issue of show cause notice or within thirty days of issue of show cause notice, no penalty shall be payable by the person liable to pay duty or the person who has paid the duty and all proceedings in respect of said duty and interest shall be deemed to be concluded;

(b) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (a) is paid within thirty days of the date of communication of

the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the penalty imposed, subject to the condition that such reduced penalty is also paid within the period so specified;

(c) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty equal to the duty so determined;

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified record for the period beginning with the 8th April, 2011 up to the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent. of the duty so determined;

(d) where any duty demanded in a show cause notice and the interest payable thereon under section 11AA, issued in respect of transactions referred to in clause (c), is paid within thirty days of the communication of show cause notice, the amount of penalty liable to be paid by such person shall be fifteen per cent. of the duty demanded, subject to the condition that such reduced penalty is also paid within the period so specified and all proceedings in respect of the said duty, interest and penalty shall be deemed to be concluded;

(e) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (c) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the duty so determined, subject to the condition that such reduced penalty is also paid within the period so specified.

(2) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (10) of section 11A, then, the amount of penalty payable under clause (c) of sub-section (1) and the interest payable under section 11AA shall stand modified accordingly and after taking into account the amount of duty of excise so modified, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay such amount of penalty and interest so modified.

(3) Where the amount of duty or penalty is increased by the appellate authority or tribunal or court over the amount determined under sub-section (10) of section 11A by the Central Excise Officer, the time within which the interest and the reduced penalty is payable under clause (b) or clause (e) of sub-section (1) in relation to such increased amount of duty shall be counted from the date of the order of the appellate authority or tribunal or court.

Explanation 1.— For the removal of doubts, it is hereby declared that—

(i) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President shall be governed by the provisions of section 11AC as amended by the Finance Act, 2015;

(ii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued but an order

determining duty under sub-section (10) of section 11A has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall be eligible to closure of proceedings on payment of duty and interest under the proviso to clause (a) of sub-section (1) or on payment of duty, interest and penalty under clause (d) of sub-section (1), subject to the condition that the payment of duty, interest and penalty, as the case may be, is made within thirty days from the date on which the Finance Bill, 2015 receives the assent of the President;

(iii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where an order determining duty under sub-section (10) of section 11A is passed after the date on which the Finance Bill, 2015 receives the assent of the President shall be eligible to payment of reduced penalty under clause (b) or clause (e) of sub-section (1), subject to the condition that the payment of duty, interest and penalty is made within thirty days of the communication of the order.

Explanation 2.— For the purposes of this section, the expression “specified records” means records maintained by the person chargeable with the duty in accordance with any law for the time being in force and includes computerised records.”.

95. In the Central Excise Act, in section 31, in clause (c), in the proviso, the words “in any appeal or revision, as the case may be,” shall be omitted. Amendment of section 31.

96. In the Central Excise Act, in section 32, in sub-section (3), the proviso shall be omitted. Amendment of section 32.

97. In the Central Excise Act, in section 32B, for the words “, as the case may be, such one of the Vice-Chairmen”, at both the places where they occur, the words “the Member” shall be substituted. Amendment of section 32B.

98. In the Central Excise Act, in section 32E, sub-section (1A) shall be omitted. Amendment of section 32E.

99. In the Central Excise Act, in section 32F, in sub-section (6), for the words, figures and letters “on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of an application made on or after the 1st day of June, 2007,” shall be omitted. Amendment of section 32F.

100. In the Central Excise Act, section 32H shall be omitted. Omission of section 32H.

101. In the Central Excise Act, in section 32K, in sub-section (1), the *Explanation* shall be omitted. Amendment of section 32K.

102. In the Central Excise Act, in section 32-O, in sub-section (1),— Amendment of section 32-O.

(a) in clause (i), the words, brackets, figures and letters “passed under sub-section (7) of section 32F, as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F” shall be omitted;

22 of 2007.

(b) in clause (ii), the words, brackets, figures and letter “under the said sub-section (7), as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F” shall be omitted.

22 of 2007.

103. In the Central Excise Act, in section 37, in sub-sections (4) and (5), for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted. Amendment of section 37.

104. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 163 (E), dated the 17th March, 2012, issued under sub-section (1) of section 5A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), shall stand amended and shall be deemed to have been amended, Amendment of notification issued under section 5A of the Central Excise Act.

1 of 1944.

retrospectively, in the manner specified in column (2) of the Third Schedule, on and from and up to the date specified in column (3) of that Schedule.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 5A of the Central Excise Act, retrospectively, at all material times.

(3) Refund shall be made of all such duty of excise which has been collected but which would not have been so collected, had the notification referred to in sub-section (1), been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.

(4) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of duty of excise under sub-section (3) shall be made within a period of six months from the date on which the Finance Bill, 2015 receives the assent of the President.

Amendment
of Third
Schedule.

105. In the Central Excise Act, the Third Schedule shall be amended in the manner specified in the Fourth Schedule.

Central Excise Tariff

Amendment
of First
Schedule.

106. In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act), the First Schedule shall be amended in the manner specified in the Fifth Schedule. 5 of 1986.

CHAPTER V

SERVICE TAX

Amendment
of section
65B.

107. In the Finance Act, 1994 (hereinafter referred to as the 1994 Act), save as otherwise provided, in section 65B,— 32 of 1994.

(a) clause (9) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;

(b) after clause (23), the following clause shall be inserted, namely:—

“(23A) “foreman of chit fund” shall have the same meaning as is assigned to the term “foreman” in clause (j) of section 2 of the Chit Funds Act, 1982;” 40 of 1982.

(c) clause (24) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;

(d) after clause (26), the following clause shall be inserted, namely:—

“(26A) “Government” means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder;”

(e) after clause (31), the following clause shall be inserted, namely:—

“(31A) “lottery distributor or selling agent” means a person appointed or authorised by a State for the purposes of promoting, marketing, selling or facilitating in organising lottery of any kind, in any manner, organised by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998;” 17 of 1998.

(f) in clause (40), the words “alcoholic liquors for human consumption,” shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;

(g) in clause (44), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

‘*Explanation 2.*—For the purposes of this clause, the expression “transaction in money or actionable claim” shall not include—

(i) any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—

(a) by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner;

(b) by a foreman of chit fund for conducting or organising a chit in any manner.’;

(h) clause (49) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

108. In section 66B of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the words “twelve per cent.”, the words “fourteen per cent.” shall be substituted.

Amendment
of section
66B.

109. In section 66D of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

Amendment
of section
66D.

(1) in clause (a), in sub-clause (iv), for the words “support services”, the words “any service” shall be substituted;

(2) for clause (f), the following clause shall be substituted, namely:—

“(f) services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption.”;

(3) in clause (i), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*— For the purposes of this clause, the expression “betting, gambling or lottery” shall not include the activity specified in *Explanation 2* to clause (44) of section 65B;’;

(4) clause (j) shall be omitted.

110. In section 66F of the 1994 Act, in sub-section (1), the following *Illustration* shall be inserted, namely:—

Amendment
of section
66F.

‘*Illustration*

The services by the Reserve Bank of India, being the main service within the meaning of clause (b) of section 66D, does not include any agency service provided or agreed to be provided by any bank to the Reserve Bank of India. Such agency service, being input service, used by the Reserve Bank of India for providing the main service, for which the consideration by way of fee or commission or any other amount is received by the agent bank, does not get excluded from the levy of service tax by virtue of inclusion of the main service in clause (b) of the negative list in section 66D and hence, such service is leviable to service tax.’.

Amendment
of section 67.

111. In section 67 of the 1994 Act, in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

‘(a) “consideration” includes—

(i) any amount that is payable for the taxable services provided or to be provided;

(ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;

(iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.’

Amendment
of section 73.

112. In section 73 of the 1994 Act,—

(i) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) Notwithstanding anything contained in sub-section (1), in a case where the amount of service tax payable has been self-assessed in the return furnished under sub-section (1) of section 70, but not paid either in full or in part, the same shall be recovered along with interest thereon in any of the modes specified in section 87, without service of notice under sub-section (1).”;

(ii) sub-section (4A) shall be omitted.

Substitution of
new section
for section 76.

113. For section 76 of the 1994 Act, the following section shall be substituted, namely:—

Penalty for
failure to pay
service tax.

“76. (1) Where service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, for any reason, other than the reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty not exceeding ten per cent. of the amount of such service tax:

Provided that where service tax and interest is paid within a period of thirty days of—

(i) the date of service of notice under sub-section (1) of section 73, no penalty shall be payable and proceedings in respect of such service tax and interest shall be deemed to be concluded;

(ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the penalty imposed in that order, only if such reduced penalty is also paid within such period.

(2) Where the amount of penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over the above the amount as determined under sub-section (2) of section 73, the time within which the reduced penalty is payable under clause (ii) of the proviso to sub-section (1) in relation to such increased amount of penalty shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be.”

114. For section 78 of the 1994 Act, the following section shall be substituted, namely:—

Substitution of new section for section 78.

“78. (1) Where any service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under the proviso to sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty which shall be equal to hundred per cent. of the amount of such service tax:

Penalty for failure to pay service tax for reasons of fraud, etc.

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified records for the period beginning with the 8th April, 2011 upto the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent of the service tax so determined:

Provided further that where service tax and interest is paid within a period of thirty days of —

(i) the date of service of notice under the proviso to sub-section (1) of section 73, the penalty payable shall be fifteen per cent. of such service tax and proceedings in respect of such service tax, interest and penalty shall be deemed to be concluded;

(ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the service tax so determined:

Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of such reduced penalty is also paid within such period:

Explanation.—For the purposes of this sub-section, “specified records” means records including computerised data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of accounts shall be considered as the specified records.

(2) Where the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, modifies the amount of service tax determined under sub-section (2) of section 73, then the amount of penalty payable under sub-section (1) and the interest payable thereon under section 75 shall stand modified accordingly, and after taking into account the amount of service tax so modified, the person who is liable to pay such amount of service tax, shall also be liable to pay the amount of penalty and interest so modified.

(3) Where the amount of service tax or penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over and above the amount as determined under sub-section (2) of section 73, the time within which the interest and the reduced penalty is payable under clause (ii) of the second proviso to sub-section (1) in relation to such increased amount of service tax shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be.

115. After section 78A of the 1994 Act, the following section shall be inserted, namely:—

Insertion of new section 78B.

Transitory
provisions.

"78B. (1) Where, in any case,—

(a) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and no notice has been served under sub-section (1) of section 73 or under the proviso thereto, before the date on which the Finance Bill, 2015 receives the assent of the President; or

(b) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and a notice has been served under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73, before the date on which the Finance Bill, 2015 receives the assent of the President,

then, in respect of such cases, the provisions of section 76 or section 78, as the case may be, as amended by the Finance Act, 2015 shall be applicable.

(2) In cases where show cause notice has been issued under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73 before the date on which the Finance Bill, 2015 receives the assent of the President, the period of thirty days for the purpose of closure of proceedings on the payment of service tax and interest under clause (i) of the proviso to sub-section (1) of section 76 or on the payment of service tax, interest and penalty under clause (i) of the second proviso to sub-section (1) of section 78, shall be counted from the date on which the Finance Bill, 2015 receives the assent of the President."

Omission of
section 80.

116. Section 80 of the 1994 Act shall be omitted.

1 of 1994.

Amendment
of section 86.

117. In section 86 of the 1994 Act, in sub-section (1), —

1 of 1994.

(a) for the words "Any assessee", the words "Save as otherwise provided herein, an assessee" shall be substituted;

(b) the following provisos shall be inserted, namely:—

"Provided that where an order, relating to a service which is exported, has been passed under section 85 and the matter relates to grant of rebate of service tax on input services, or rebate of duty paid on inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944:

1 of 1944.

Provided further that all appeals filed before the Appellate Tribunal in respect of matters covered under the first proviso, after the coming into force of the Finance Act, 2012, and pending before it up to the date on which the Finance Bill, 2015 receives the assent of the President, shall be transferred and dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944."

23 of 2012.

Amendment
of section 94.

118. In section 94 of the 1994 Act, in sub-section (2), for clause (aa), the following clause shall be substituted, namely:—

1 of 1944.

"(aa) determination of the amount and value of taxable service, the manner thereof, and the circumstances and conditions under which an amount shall not be a consideration, under section 67;"

CHAPTER VI

SWACHH BHARAT CESS

Swachh Bharat
Cess.

119. (1) This Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(2) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Swachh Bharat Cess, as service tax on all or any of the taxable services at the rate of two per cent. on the value of such services for the purposes of financing and promoting Swachh Bharat initiatives or for any other purpose relating thereto.

(3) The Swachh Bharat Cess leviable under sub-section (2) shall be in addition to any cess or service tax leviable on such taxable services under Chapter V of the Finance Act, 1994, or under any other law for the time being in force.

(4) The proceeds of the Swachh Bharat Cess levied under sub-section (2) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the Swachh Bharat Cess for such purposes specified in sub-section (2), as it may consider necessary.

(5) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax, interest and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Swachh Bharat Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules made thereunder, as the case may be.

CHAPTER VII

SENIOR CITIZENS' WELFARE FUND

PART I

PRELIMINARY

120. (1) This Chapter extends to the whole of India.

Extent and commencement.

(2) This Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

121. In this Chapter, unless the context otherwise requires,—

Definitions.

(1) "Committee" means the Inter-Ministerial Committee constituted under section 123;

(2) "eligible interest" means an interest on the principal transferred to the Fund at the rate notified by the Central Government;

(3) "Financial Year" means the period commencing on the 1st day of April and ending on the 31st day of March every year;

(4) "Fund" means the Fund established under section 122;

(5) "inoperative account" means an account under any of the schemes specified by or under sub-section (2) of section 122 and not operated upon for a period of three years if operable on regular basis, or if there is a date of maturity, from the date of maturity, as the case may be;

(6) "Institution" means any bank, Post Office or any other institution notified by the Central Government which is holding the inoperative accounts having unclaimed amounts;

(7) "notification" means a notification published in the Official Gazette;

(8) "prescribed" means prescribed by rules made by the Central Government under this Chapter;

(9) "senior citizen" means a citizen of India who has attained the age of sixty years or above;

(10) "unclaimed amount" means the amount as referred to in sub-section (2) of section 122.

PART II

ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment
of Fund.

122. (1) The Central Government shall establish a Fund to be called the "Senior Citizens' Welfare Fund".

(2) Any credit balance in any of the accounts under the following schemes remaining unclaimed for a period of seven years from the date of its declaration as an inoperative account shall be transferred by the respective Institutions holding them to the Fund.

(a) Small Savings and other Savings Schemes of the Central Government with Post Offices and Banks authorised to operate such Schemes;

(b) Accounts of Public Provident Fund under the Public Provident Fund Scheme, 1968 maintained by Institution; and

(c) such other amounts, in any accounts or schemes as may be prescribed.

(3) The Fund shall be utilised for promoting welfare of senior citizens and for such other purposes as may be prescribed.

(4) The Central Government shall, from time to time, notify the eligible rate of interest for money lying in the Fund.

Constitution
of a
Committee
for
administration
of Fund.

123. (1) The Central Government shall constitute, by notification, an Inter-Ministerial Committee for administration of the Fund consisting of a Chairperson and such other number of Members as the Central Government may appoint.

(2) The manner of administration of the Fund, holding of meetings of the Committee, shall be in accordance with such rules as may be prescribed.

(3) It shall be competent for the Committee to spend money out of the Fund for carrying out the objects specified in sub section (3) of section 122.

Payment of
claims.

124. (1) Any person claiming to be entitled to the unclaimed amount transferred to the Fund may apply to the respective Institution with which the amount due was originally lying or deposited, at any time before the right to the amount is extinguished as provided in section 126.

(2) The person making the application shall bear the onus of establishing his right to receive the amount to which the application relates.

(3) The Institution shall consider the application as expeditiously as possible, and make payment along with the eligible interest, in any case, within sixty days of the receipt of the application.

(4) Any payment under this section shall discharge the Institution from liability in respect of the amount credited to the Fund.

(5) The interest payable, if any, on the money transferred to the Fund shall be determined and notified by the Central Government.

Publication of
information.

125. (1) The Institution shall publish such information as is necessary and sufficient to give reasonable notice of the existence of the unclaimed amounts, before crediting the unclaimed amount to the Fund.

(2) The Central Government may prescribe the method by which such information shall be published.

Escheat to the
Central
Government.

126. (1) Where no request or claim as specified in section 124 of this Chapter is made within a period of twenty-five years from the date of the credit of the unclaimed amount into the Fund, then, notwithstanding anything contrary contained in any other law for the

time being in force, unless a Court otherwise orders, it shall escheat to the Central Government.

(2) The right of any person claiming to have an entitlement to the unclaimed amount shall subsist till the period specified under sub-section (1), and shall extinguish thereafter.

(3) Notwithstanding anything contained in sub-section (2), if, in any case, the Central Government is satisfied that there were genuine reasons which precluded a person from making a claim for refund in time, it may, on the recommendation of the Committee based on examination of facts, refund the money escheated to him.

(4) The Central Government may keep such escheated amount with the Fund for the purposes of the Fund.

PART III

ACCOUNTS AND AUDIT

127. (1) The Fund shall prepare, in such form and at such time for each financial year as may be prescribed, its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government.

Reporting of
accounts and
audit.

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually by the Institution to the Central Government.

(3) The Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.

PART IV

MISCELLANEOUS

128. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Chapter.

Power of
Central
Government
to make rules.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for—

(a) such other amounts referred to in clause (c) of sub-section (2) of section 122;

(b) the utilisation of the Fund for the purposes under sub-section (3) of section 122;

(c) the composition of the Committee for managing the Fund under sub-section (2) of section 123;

(d) the manner of administration of the Fund and the procedure relating to holding of the meetings of the Committee under sub-section (2) of section 123;

(e) the manner of giving notice to the public about the existence of the unclaimed amounts under sub-section (2) of section 125;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
exempt in
certain cases.

129. The Central Government may, for reasons to be recorded in writing, exempt any unclaimed amount or institution or class of unclaimed amounts or institutions from any or all of the provisions of this Chapter, either generally or for such period as may be specified.

Power to
remove
difficulties.

130. (1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may by order, do anything not in consistent with the provisions of this Chapter for the purpose of removing such difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Chapter.

(2) Every order under this section shall be laid, as soon as may be after it is made, before each house of Parliament.

CHAPTER VIII

MISCELLANEOUS

PART I

AMENDMENTS TO THE FORWARD CONTRACTS (REGULATION) ACT, 1952

Commencement
and
amendment of
Act 74 of
1952.

131. [A] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part.

Insertion of
new section
28A.

[B] In the Forward Contracts (Regulation) Act, 1952, (herein referred to as the Forward Contracts Act), after section 28, the following section shall be inserted, namely:— 74 of 1952.

Savings of
recognised
associations:

“28A.(1) All recognised associations under the Forward Contracts Regulation Act, shall be deemed to be recognised stock exchanges under the Securities Contracts (Regulation) Act, 1956 (herein referred to as the Securities Contracts Act): 42 of 1956.

“Provided that such deemed recognized stock exchanges shall not carry out any activity other than the activities of assisting, regulating or controlling the business of buying, selling or dealing in commodity derivatives till the said deemed recognized stock exchanges are specifically permitted by the Securities and Exchange Board of India:

Provided further that a person buying or selling or otherwise dealing in commodity derivatives as a commodity derivatives broker, or such other intermediary who may be associated with the commodity derivatives market, immediately before the transfer and vesting of rights and assets to the Securities and Exchange Board of India for which no registration certificate was necessary prior to such transfer, may continue to do so for a period of three months from such transfer or, if he has made an application for such registration within the said period of three months, till the disposal of such application.”

(2) The Securities and Exchange Board of India (herein referred to as the Security Board) may provide such deemed exchanges, adequate time to comply with the Securities Contracts Act and any regulations, rules, guidelines or like instruments made under the said Act.

(3) The bye-laws, circulars, or any like instrument made by a recognised association under the Forward Contracts Act shall continue to be applicable for a period of one year from the date on which that Act is repealed, or till such time as notified by the Security Board, as if the Forward Contracts Act had not been repealed, whichever is earlier.

(4) All rules, directions, guidelines, instructions, circulars, or any like instruments, made by the Commission or the Central Government applicable to recognised associations under the Forward Contracts Act shall continue to remain in force for a period of one year from the date on which that Act is repealed, or till such time as notified by the Security Board, whichever is earlier, as if the Forward Contracts Act had not been repealed.

(5) In addition to the powers under the Securities Contracts Regulation Act, the Security Board and the Central Government shall exercise all powers of the Commission and the Central Government with respect to recognised associations, respectively, on such deemed exchanges, for a period of one year as if the Forward Contracts Act had not been repealed.”

132. After section 29 of the Forward Contracts Act, the following sections shall be inserted, namely:—

Insertion of new sections 29A and 29B.

74 of 1952.

“29A.(1) The Forward Contracts (Regulation) Act, 1952 is hereby repealed.

Repeal and savings.

(2) On and from the date of repeal of Forward Contracts Act—

(a) the rules and regulations framed by the Central Government and the Commission under the Forward Contracts Act, shall stand repealed;

(b) all authorities and entities established by the Central Government under the Forward Contracts Act, including the Commission and the Advisory Council established under section 25 of that Act, shall stand dissolved;

(c) anything done or any action taken or purported to have been done or taken including any inspection, order, penalty, proceeding or notice made, initiated or issued or any confirmation or declaration made or any licence, permission, authorisation or exemption granted, modified or revoked, or any document or instrument executed, or any direction given under the Act repealed in sub-section (1), shall be continued or enforced by the Security Board, as if that Act had not been repealed;

(d) all offences committed, and existing proceedings with respect to offences which may have been committed under the Forward Contracts Act, shall continue to be governed by the provisions of that Act, as if that Act had not been repealed;

(e) a fresh proceeding related to an offence under the Forward Contracts Act, may be initiated by the Security Board under that Act within a period of three years from the date on which that Act is repealed and be proceeded with as if that Act had not been repealed;

(f) no court shall take cognizance of any offence under the Forward Contracts Act from the date on which that Act is repealed, except as provided in clauses (d) and (e);

10 of 1897.

(g) clauses (d), (e) and (f) shall not be held to or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal to matters not covered under these sub-sections.

29B. (1) On the date on which the Forward Contracts Act is repealed, the undertaking shall be transferred, and vest with the Securities and Exchange Board of India.

Transfer and vesting of undertaking of Commission.

(2) If there is any existing proceeding or cause of action against the Commission in relation to the undertaking on the date on which the Forward Contracts Act is repealed, such proceeding or cause of action may be continued and enforced by or against the Security Board.

(3) The concessions, privileges, benefits and exemptions including any benefits and exemptions with regard to the payment of any tax, duty and cess granted to the Commission with respect to its undertaking shall be transferred to the Security Board on the date on which the Forward Contracts Act is repealed.

(4) Every employee holding any office (excluding members of the Commission) under the Commission immediately before the date on which the Forward Contracts Act is repealed, will hold office in the Central Government or the Security Board, as the Central Government may notify in the Official Gazette, for the same tenure and on the same terms and conditions of service as such employee would have held such office if the Commission had not been dissolved:

Provided that where the Central Government notifies that an employee of the Commission shall continue as an employee of the Central Government under the foregoing provision, the Central Government may, at the request of the Security Board, depute such employee to the Security Board, for a period not exceeding two years from the date on which the Forward Contracts Act is repealed.

(5) Within six months from the date on which the Forward Contracts Act is repealed, an employee of the Commission opting not to be an employee of the Central Government or the Security Board, as the case may be, shall communicate such decision to the Central Government or Security Board, as applicable.

(6) Nothing contained in any other law in force shall entitle any employee to any compensation for the loss of office due to the repeal of the Forward Contracts Act and the consequent dissolution of the Commission, and no such claim shall be entertained by any court, tribunal or other authority.

(7) The members of the Commission appointed by the Central Government under section 3 of the Forward Contracts Act, shall cease to hold office from the date the Forward Contracts Act is repealed.

(8) The members of the Commission shall not be entitled to any compensation for the loss of office due to the repeal of the Forward Contracts Act and the consequent dissolution of the Commission or for the premature termination of any contract of management entered into by such member with the Commission, and no such claim shall be entertained by any court, tribunal or other authority.

(9) The transfer and vesting of the undertaking shall not be liable to the payment of any stamp duty under the Indian Stamp Act, 1899 or any applicable stamp duties 2 of 1899. under state laws.”.

PART II

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

Commencement
and
amendment of
Act 42 of
1956.

Amendment
of section 2.

133. [A] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part.

[B] In the Securities Contracts (Regulation) Act, 1956 (herein referred to as the Securities Contracts Act), in section 2,—

(i) in clause (ac), after sub-clause (B), the following sub-clauses shall be inserted, namely:—

“(C) commodity derivatives; and

(D) such other instruments as may be declared by the Central Government to be derivatives;”;

(ii) after clause (b), the following clauses shall be inserted, namely:—

‘(bb) “goods” mean every kind of movable property other than actionable claims, money and securities;

(bc) “commodity derivative” means a contract —

(i) for the delivery of such goods, as may be notified by the Central Government in the Official Gazette, and which is not a ready delivery contract; or

(ii) for differences, which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified by the Central Government, in consultation with the Board, but does not include securities as referred to in sub-clauses (A) and (B) of clause (ac);’;

(iii) after clause (c), the following clause shall be inserted, namely:—

‘(ca) “non-transferable specific delivery contract” means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bill of lading, warehouse receipt or any other documents of title relating thereto are not transferable;’;

(iv) after clause (e), the following clause shall be inserted, namely:—

‘(ea) “ready delivery contract” means a contract which provides for the delivery of goods and the payment of a price therefor, either immediately, or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise:

Provided that where any such contract is performed either wholly or in part;

(I) by realisation of any sum of money being the difference between the contract rate and the settlement rate or clearing rate or the rate of any offsetting contract; or

(II) by any other means whatsoever, and as a result of which the actual tendering of the goods covered by the contract or payment of the full price therefor is dispensed with, then such contract shall not be deemed to be a ready delivery contract;’;

(v) after clause (h), the following clause shall be inserted, namely:—

‘(ha) “specific delivery contract” means a commodity derivative which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;’;

(vi) after clause (j), the following clause shall be inserted, namely:—

‘(k) “transferable specific delivery contract” means a specific delivery contract which is not a non-transferable specific delivery contract and which is subject to such conditions relating to its transferability as the Central Government may by notification in the Official Gazette, specify in this behalf.’.

Amendment
of section
18A.

134. In section 18A of the Securities Contracts Act,—

(i) in clause (b), for the words “stock exchange,” the words “stock exchange; or” shall be substituted;

(ii) after clause (b) as so amended, and after the long line, the following clause shall be inserted, namely:—

“(c) between such parties and on such terms as the Central Government may, by notification in the Official Gazette, specify.”

Insertion of
new section
30A.

135. After section 30 of the Securities Contracts Act, the following section shall be inserted, namely:—

Special
provisions
related to
commodity
derivatives.

“30A. (1) Nothing contained in this Act shall apply to non-transferable specific delivery contracts:

Provided that no person shall organise or assist in organising or be a member of any association in any area to which the provisions of section 13 have been made applicable (other than a stock exchange) which provides facilities for the performance of any non-transferable specific delivery contract by any party thereto without having to make or receive actual delivery to or from the other party to the contract or to or from any other party named in the contract.

(2) Where in respect of any area, the provisions of section 13 have been made applicable in relation to commodity derivatives for the sale or purchase of any goods or class of goods, the Central Government may, by notification, declare that in the said area or any part thereof as may be specified in the notification all or any of the provisions of this Act shall not apply to transferable specific delivery contracts for the sale or purchase of the said goods or class of goods either generally, or to any class of such contracts in particular.

(3) Notwithstanding anything contained in sub-section (1), if the Central Government is of the opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area, it may, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply to such class or classes of non-transferable specific delivery contracts in such area in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply.”

PART III

AMENDMENT TO THE FINANCE (No. 2) ACT, 1998

Amendment
of Second
Schedule.

136. In the Finance (No.2) Act, 1998, in the Second Schedule, for the entry in column 21 of 1998. (3), the entry “Rupees eight per litre” shall be substituted.

PART IV

AMENDMENT TO THE FINANCE ACT, 1999

Amendment
of Second
Schedule.

137. In the Finance Act, 1999, in the Second Schedule, for the entry in column (3), the entry “Rupees eight per litre” shall be substituted. 27 of 1999.

PART V

AMENDMENTS TO THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

Commencement
and
amendment of
Act 42 of
1999.

138. [4] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part.

42 of 1999.

[B] In the Foreign Exchange Management Act, 1999 (herein referred to as the Foreign Exchange Act), in section 2,—

Amendment
of section 2.

(i) after clause (c), the following clause shall be inserted, namely:—

“(cc) “Authorised Officer” means an officer of the Directorate of Enforcement authorised by the Central Government under section 37A;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(gg) “Competent Authority” means the Authority appointed by the Central Government under sub-section (2) of section 37A;”.

139. In section 6 of the Foreign Exchange Act,—

Amendment
of section 6.

(A) in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) any class or classes of capital account transactions, involving debt instruments, which are permissible;”;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) any conditions which may be placed on such transactions;”;

(iii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Reserve Bank or the Central Government shall not impose any restrictions on the drawal of foreign exchange for payment due on account of amortisation of loans or for depreciation of direct investments in the ordinary course of business.”;

(B) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Central Government may, in consultation with the Reserve Bank, prescribe—

(a) any class or classes of capital account transactions, not involving debt instruments, which are permissible;

(b) the limit up to which foreign exchange shall be admissible for such transactions; and

(c) any conditions which may be placed on such transactions.”;

(C) sub-section (3) shall be omitted;

(D) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) For the purposes of this section, the term “debt instruments” shall mean, such instruments as may be determined by the Central Government in consultation with the Reserve Bank.”.

140. In section 13 of the Foreign Exchange Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

Amendment
of section 13.

“(1A) If any person is found to have acquired any foreign exchange, foreign security or immovable property, situated outside India, of the aggregate value exceeding the threshold prescribed under the proviso to sub-section (1) of section 37A, he shall be liable to a penalty up to three times the sum involved in such contravention and confiscation of the value equivalent, situated in India, the Foreign exchange, foreign security or immovable property.

“(1B) If the Adjudicating Authority, in a proceeding under sub-section (1A) deems fits, he may, after recording the reasons in writing, recommend for the initiation of

prosecution and if the Director of Enforcement is satisfied, he may, after recording the reasons in writing, may direct prosecution by filing a Criminal Complaint against the guilty person by an officer not below the rank of Assistant Director.

(1C) If any person is found to have acquired any foreign exchange, foreign security or immovable property, situated outside India, of the aggregate value exceeding the threshold prescribed under the proviso to sub-section (1) of section 37A, he shall be, in addition to the penalty imposed under sub-section (1A), punishable with imprisonment for a term which may extend to five years and with fine.

(1D) No court shall take cognizance of an offence under sub-section (1C) of section 13 except as on complaint in writing by an officer not below the rank of Assistant Director referred to in sub-section (1B)."

Amendment
of section 18.

141. In section 18 of the Foreign Exchange Act, after the words "Adjudicating Authorities", the words "Competent Authorities" shall be inserted.

Insertion of
new section
37A.

142. After section 37 of the Foreign Exchange Act, the following section shall be inserted, namely:—

Special
provisions
relating to
assets held
outside India
in
contravention
of section 4.

"37A. (1) Upon receipt of any information or otherwise, if the Authorised Officer prescribed by the Central Government has reason to believe that any foreign exchange, foreign security, or any immovable property, situated outside India, is suspected to have been held in contravention of section 4, he may after recording the reasons in writing, by an order, seize value equivalent, situated within India, of such foreign exchange, foreign security or immovable property:

Provided that no such seizure shall be made in case where the aggregate value of such foreign exchange, foreign security or any immovable property, situated outside India, is less than the value as may be prescribed.

(2) The order of seizure along with relevant material shall be placed before the Competent Authority, appointed by the Central Government, who shall be an officer not below the rank of Joint Secretary to the Government of India by the Authorised Officer within a period of thirty days from the date of such seizure.

(3) The Competent Authority shall dispose of the petition within a period of one hundred eighty days from the date of seizure by either confirming or by setting aside such order, after giving an opportunity of being heard to the representatives of the Directorate of Enforcement and the aggrieved person.

Explanation.— While computing the period of one hundred eighty days, the period of stay granted by court shall be excluded and a further period of at least thirty days shall be granted from the date of communication of vacation of such stay order.

(4) The order of the Competent Authority confirming seizure of equivalent asset shall continue till the disposal of adjudication proceedings and thereafter, the Adjudicating Authority shall pass appropriate directions in the adjudication order with regard to further action as regards the seizure made under sub-section (1):

Provided that if, at any stage of the proceedings under this Act, the aggrieved person discloses the fact of such foreign exchange, foreign security or immovable property and brings back the same into India, then the Competent Authority or the Adjudicating Authority, as the case may be, on receipt of an application in this regard from the aggrieved person, and after affording an opportunity of being heard to the aggrieved person and representatives of the Directorate of Enforcement, shall pass an appropriate order as it deems fit, including setting aside of the seizure made under sub-section (1).

(5) Any person aggrieved by any order passed by the Competent Authority may prefer an appeal to the Appellate Tribunal.

(6) Nothing contained in section 15 shall apply to this section."

143. In section 46 of the Foreign Exchange Act, in sub-section (2),—

Amendment
of section 46.

(i) after clause (a), the following clauses shall be inserted, namely:—

“(aa) the instruments which are determined to be debt instruments under sub-section (7) of section 6;

(ab) the permissible classes of capital account transactions in accordance with sub-section (2A) of section 6, the limits of admissibility of foreign exchange, and the prohibition, restriction or regulation of such transactions;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(gg) the aggregate value of foreign exchange referred to in sub-section (1) of section 37A;”.

144. In section 47 of the Foreign Exchange Act,—

Amendment
of section 47.

(A) in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) the permissible classes of capital account transactions involving debt instruments determined under sub-section (7) of section 6, the limits of admissibility of foreign exchange for such transactions, and the prohibition, restriction or regulation of such capital account transactions under section 6;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(ga) export, import or holding of currency or currency notes;”;

(B) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) All regulations made by the Reserve Bank before the date on which the provisions of this section are notified under section 6 and section 47 of this Act on capital account transactions, the regulation making power in respect of which now vests with the Central Government, shall continue to be valid, until amended or rescinded by the Central Government.”.

PART VI

AMENDMENTS TO THE PREVENTION OF MONEY-LAUNDERING ACT, 2002

15 of 2003.

145. In the Prevention of Money-laundering Act, 2002 (herein referred to as the Money-laundering Act), in section 2, in sub-section (1),—

Amendment
of section 2.

(i) in clause (u), after the words “or the value of any such property”, the words “or where such property is taken or held outside the country, then the property equivalent in value held within the country” shall be inserted;

(ii) in clause (y), in sub-clause (ii), for the words “thirty lakh rupees”, the words “one crore rupees” shall be substituted.

146. In section 5 of the Money-laundering Act, in sub-section (1), in the second proviso, for the word, brackets and letter “clause (b)”, the words “first proviso” shall be substituted.

Amendment
of section 5.

147. In section 8 of the Money-laundering Act,—

Amendment
of section 8.

(i) in sub-section (3), in clause (b), for the words “Adjudicating Authority”, the words “Special Court” shall be substituted;

(ii) after sub-section (7), the following sub-section shall be inserted, namely:—

“(8) Where a property stands confiscated to the Central Government under sub-section (5), the Special Court, in such manner as may be prescribed, may also direct the Central Government to restore such confiscated property or part thereof of a claimant with a legitimate interest in the property, who may have suffered a quantifiable loss as a result of the offence of money laundering:

Provided that the Special Court shall not consider such claim unless it is satisfied that the claimant has acted in good faith and has suffered the loss despite having taken all reasonable precautions and is not involved in the offence of money laundering.”.

Amendment
of section 20.

148. In section 20 of the Money-laundering Act,—

(i) in sub-section (5), for the words “the Court or the Adjudicating Authority, as the case may be”, the words “Special Court” shall be substituted;

(ii) in sub-section (6),—

(a) for the word “Court”, the words “Special Court” shall be substituted;

(b) after the words “ninety days from the date of”, the words “receipt of” shall be inserted.

Amendment
of section 21.

149. In section 21 of the Money-laundering Act,—

(i) in sub-section (5), for the words, brackets and figures “under sub-section (5) or sub-section (7) of section 8”, the words, brackets, figures and letters “or release under sub-section (5) or sub-section (6) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted;

(ii) in sub-section (6), —

(a) for the words, brackets, figures and letters “under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60”, the words, brackets and figures “Adjudicating Authority under sub-section (5) of section 21” shall be substituted;

(b) after the words “ninety days from the date of”, the words “receipt of” shall be inserted.

Amendment
of section 60.

150. In section 60 of the Money-laundering Act, in sub-section (2A), for the words “Adjudicating Authority”, the words “Special Court” shall be substituted.

Amendment
of Schedule.

151. In the Schedule to the Money-laundering Act, after Part A, the following Part shall be inserted, namely:—

“PART B

OFFENCE UNDER THE CUSTOMS ACT, 1962

| Section | Description of offence |
|---------|--|
| 132 | False declaration, false documents, etc.”. |

PART VII

AMENDMENT TO THE FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2003

Amendment
of section 4.

152. In the Fiscal Responsibility and Budget Management Act, 2003, in section 4, for the figures, letters and word “31st March, 2015”, wherever they occur, the figures, letters and word “31st March, 2018” shall be substituted.

39 of 2003.

PART VIII

AMENDMENTS TO THE FINANCE (No. 2) ACT, 2004

23 of 2004.

153. In the Finance (No. 2) Act, 2004 (herein referred to as 2004 Act), in Chapter VI, section 95 shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

Omission of section 95.

154. In section 97 of the 2004 Act, with effect from the 1st day of June, 2015,—

Amendment of section 97.

(i) after clause (5A), the following clause shall be inserted, namely:—

“(5AA) “initial offer” shall have the meaning assigned to it in,—

15 of 1992.

(i) clause (q) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, in case of a business trust, being a real estate investment trust;

15 of 1992.

(ii) clause (v) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, in case of a business trust, being an infrastructure investment trust;”;

(ii) in clause (13), after sub-clause (aa), the following sub-clause shall be inserted, namely:—

43 of 1961.

“(ab) sale of unlisted units of a business trust by any holder of such units which were acquired in consideration of a transfer referred to in clause (xvii) of section 47 of the Income-tax Act, 1961 under an offer for sale to the public included in an initial offer and where such units are subsequently listed on a recognised stock exchange; or”.

155. In section 98 of the 2004 Act, in the Table, after serial number 6 and entries relating thereto, the following serial number and entries shall be inserted, namely:—

Amendment of section 98.

| Sl. No. | Taxable securities transaction | Rate | Payable by |
|---------|---|---------------|------------|
| 1 | 2 | 3 | 4 |
| “7 | Sale of unlisted units of a business trust under an offer for sale referred to in sub-clause (ab) of clause (13) of section 97. | 0.2 per cent. | Seller”; |

156. In section 100 of the 2004 Act,—

Amendment of section 100.

(i) after sub-section (2A), the following sub-section shall be inserted, namely:—

“(2B) The lead merchant banker appointed by the business trust in respect of an initial offer shall collect the securities transaction tax from every person who enters into a taxable securities transaction referred to in sub-clause (ab) of clause (13) of section 97 at the rates specified in section 98.”;

(ii) in sub-section (3),—

(A) after the word, brackets, figure and letter “sub-section (2A)”, the words, brackets, figure and letter “or sub-section (2B)” shall be inserted;

(B) after the words “an initial public offer”, the words “or an initial offer” shall be inserted;

(iii) in sub-section (4), after the words “an initial public offer”, the words “or an initial offer” shall be inserted.

Amendment
of section
101.

157. In section 101 of the 2004 Act, in sub-section (1),—

(A) after the words “an initial public offer”, the words “or an initial offer” shall be inserted;

(B) for the words “being sale of units to such Mutual Fund during such financial year” occurring at the end, the words “during such financial year, being sale of units to such Mutual Fund or sale of unlisted shares under an initial public offer or sale of unlisted units of business trust under an initial offer, in respect of which such lead merchant banker is appointed” shall be substituted.

PART IX

AMENDMENT TO THE FINANCE ACT, 2005

Amendment
of Seventh
Schedule.

158. In the Finance Act, 2005, in the Seventh Schedule, the sub-heading 2202 10 and 18 of 2005. the entries relating thereto shall be omitted.

PART X

AMENDMENT TO THE FINANCE ACT, 2007

Omission of
section 140.

159. In the Finance Act, 2007, in Chapter VI, section 140 shall be omitted with effect 22 of 2007. from such date as the Central Government may, by notification in the Official Gazette, appoint.

PART XI

AMENDMENT TO THE FINANCE ACT, 2010

Amendment
of Tenth
Schedule.

160. In the Finance Act, 2010, in the Tenth Schedule, for the entry in column (4) 14 of 2010. occurring against all the headings, the entry “Rs. 300 per tonne” shall be substituted.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 2,50,000 | Nil; |
| (2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,50,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 10,00,000 | Rs. 1,25,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 3,00,000 | Nil; |
| (2) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 20,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 10,00,000 | Rs. 1,20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 5,00,000 | Nil; |
| (2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (3) where the total income exceeds Rs. 10,00,000 | Rs. 1,00,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

| | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

| | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

| | |
|--------------------------------------|-----------------------------------|
| I. In the case of a domestic company | 30 per cent. of the total income; |
|--------------------------------------|-----------------------------------|

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

- 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every company, be increased by a surcharge for the purposes of the Union calculated,—

(i) in the case of every domestic company—

(a) having a total income exceeding one crore rupees, but not exceeding ten crore rupees, at the rate of five per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax;

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

| | <i>Rate of income-tax</i> |
|---|---------------------------|
| I. In the case of a person other than a company— | |
| (a) where the person is resident in India— | |
| (i) on income by way of interest other than "Interest on securities" | 10 per cent.; |
| (ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent.; |
| (iii) on income by way of winnings from horse races | 30 per cent.; |
| (iv) on income by way of insurance commission | 10 per cent.; |
| (v) on income by way of interest payable on— | 10 per cent.; |
| (A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act; | |
| (B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder; | |

Rate of income-tax

| | |
|---|---------------|
| (C) any security of the Central or State Government; | |
| (vi) on any other income | 10 per cent.; |
| (b) where the person is not resident in India— | |
| (i) in the case of a non-resident Indian— | |
| (A) on any investment income | 20 per cent.; |
| (B) on income by way of long-term capital gains referred to in section 115E or sub-clause (iii) of clause (c) of sub-section (1) of section 112 | 10 per cent.; |
| (C) on income by way of short-term capital gains referred to in section 111A | 15 per cent.; |
| (D) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] | 20 per cent.; |
| (E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC) | 20 per cent.; |
| (F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India | 10 per cent.; |
| (G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy | 10 per cent.; |
| (H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy | 10 per cent.; |
| (I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent.; |
| (J) on income by way of winnings from horse races | 30 per cent.; |
| (K) on the whole of the other income | 30 per cent.; |
| (ii) in the case of any other person— | |
| (A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC) | 20 per cent.; |
| (B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India | 10 per cent.; |
| (C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter | 10 per cent.; |

included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy

(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy

10 per cent.;

(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

30 per cent.;

(F) on income by way of winnings from horse races

30 per cent.;

(G) on income by way of short-term capital gains referred to in section 111A

15 per cent.;

(H) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112

10 per cent.;

(I) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]

20 per cent.;

(J) on the whole of the other income

30 per cent.

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than "Interest on securities"

10 per cent.;

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

30 per cent.;

(iii) on income by way of winnings from horse races

30 per cent.;

(iv) on any other income

10 per cent.;

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

30 per cent.;

(ii) on income by way of winnings from horse races

30 per cent.;

(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)

20 per cent.;

(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India

10 per cent.;

(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976

50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976

10 per cent.;

(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved

Rate of income-tax

by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

| | |
|---|---------------|
| (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 | 50 per cent.; |
| (B) where the agreement is made after the 31st day of March, 1976 | 10 per cent.; |
| (vii) on income by way of short-term capital gains referred to in section 111A | 15 per cent.; |
| (viii) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112 | 10 per cent.; |
| (ix) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] | 20 per cent.; |
| (x) on any other income | 40 per cent. |

Explanation.— For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(i) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act or co-operative society or firm or local authority, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(ii) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated,—

(a) at the rate of two per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees; and

(b) at the rate of five per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such “advance tax” in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115BBD or section 115BBE or section 115E or section 115JB or section 115JC] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

(RATES OF INCOME-TAX)

| | |
|---|--|
| (1) where the total income does not exceed Rs. 2,50,000 | Nil; |
| (2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,50,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |

- (4) where the total income exceeds Rs. 10,00,000

Rs. 1,25,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

- (II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

- | | |
|---|--|
| (1) where the total income does not exceed Rs. 3,00,000 | Nil; |
| (2) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 20,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 10,00,000 | Rs. 1,20,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

- (III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

- | | |
|---|--|
| (1) where the total income does not exceed Rs. 5,00,000 | Nil; |
| (2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000; |
| (3) where the total income exceeds Rs. 10,00,000 | Rs. 1,00,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purpose of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income

30 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income

30 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union calculated,—

(i) in the case of every domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax;

(ii) in the case of every company other than a domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART IV

[See section 2(13)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe; re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2015, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2015.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2016, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015, is a loss, then, for the purposes of sub-section (1) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2016.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1), or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) or of the First Schedule to the Finance (No. 2) Act, 2009 (33 of 2009) or of the First Schedule to the Finance Act, 2010 (14 of 2010) or of the First Schedule to the Finance Act, 2011 (8 of 2011) or of the First Schedule to the Finance Act, 2012 (23 of 2012) or of the First Schedule to the Finance Act, 2013 (17 of 2013) or of the First Schedule to the Finance (No. 2) Act, 2014 (25 of 2014) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE
(See section 91)

In the First Schedule to the Customs Tariff Act,—

- (1) in Chapter 27, for the entry in column (4), occurring against tariff item 2701 12 00, the entry “10%” shall be substituted;
- (2) in Chapter 72, for the entry in column (4) occurring against all the tariff items, the entry “15%” shall be substituted;
- (3) in Chapter 73, for the entry in column (4) occurring against all the tariff items, the entry “15%” shall be substituted;
- (4) in Chapter 87, for the entry in column (4) occurring against all the tariff items of headings 8702 and 8704, the entry “40%” shall be substituted.

THE THIRD SCHEDULE
(See section 104)

| Notification No. and date | Amendment, | Period of effect of amendment | | | | | | | | | | |
|--|--|---|-----|------|-----|-----|-------|--------------------|---|-----|------|---|
| (1) | (2) | (3) | | | | | | | | | | |
| G.S.R.163(E), dated the 17th March, 2012[12/2012-CentralExcise, dated the 17th March, 2012] as amended vide G.S.R.75(E), dated the 3rd February, 2014 [03/2014-Central Excise, dated the 3rd February, 2014] | <p>In the said notification, in the Table, after serial number 205 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—</p> <table><tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th><th>(5)</th></tr><tr><td>"205A</td><td>7302 or 8530</td><td>Railway or tramway track construction material of iron and steel.</td><td>12%</td><td>49";</td></tr></table> <p><i>Explanation.</i>—For the purposes of this exemption, the value of the goods shall be the value of goods excluding the value of rails.</p> | (1) | (2) | (3) | (4) | (5) | "205A | 7302 or 8530 | Railway or tramway track construction material of iron and steel. | 12% | 49"; | 17th day of March, 2012 to 2nd February, 2014 (both days inclusive) |
| (1) | (2) | (3) | (4) | (5) | | | | | | | | |
| "205A | 7302 or 8530 | Railway or tramway track construction material of iron and steel. | 12% | 49"; | | | | | | | | |

THE FOURTH SCHEDULE
(See section 105)

In the Third Schedule to the Central Excise Act,—

(i) after serial number 15 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

| S.No. | Heading, sub-heading or tariff item | Description of goods |
|-------|-------------------------------------|---|
| (1) | (2) | (3) |
| 15A. | 2101 20 | Extracts, essences and concentrates, of tea or mate, and preparations with a basis of these extracts, essences or concentrates or with a basis of tea or mate”; |

(ii) after serial number 23 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

| (1) | (2) | (3) |
|------|------|-------------|
| 23A. | 2202 | All goods”; |

(iii) against serial number 94,—

(a) for the entry in column (2), the entry “Chapter 85 or Chapter 94” shall be substituted;

(b) in column (3), for the words “except lamps for automobiles”, the words, figures, brackets and letters “falling under heading 8539 (except lamps for automobiles), LED lights or fixtures including LED lamps falling under Chapter 85 or heading 9405” shall be substituted.

THE FIFTH SCHEDULE
(See section 106)

In the First Schedule to the Central Excise Tariff Act,—

(i) in Chapter 4, for the entry in column (4) occurring against tariff items 0402 91 10 and 0402 99 20, the entry “12.5%” shall be substituted;

(ii) in Chapter 11,—

(a) for the entry in column (4) occurring against all the tariff items of heading 1107, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against all the tariff items of heading 1108 (except tariff item 1108 20 00), the entry “12.5%” shall be substituted;

(iii) in Chapter 13, for the entry in column (4) occurring against all the tariff items (except tariff item 1302 11 00), the entry “12.5%” shall be substituted;

(iv) in Chapter 15,—

(a) for the entry in column (4) occurring against tariff item 1517 10 22, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 1520 00 00, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 1521 and 1522, the entry “12.5%” shall be substituted;

(v) in Chapter 17, for the entry in column (4) occurring against all the tariff items of headings 1701 (except tariff items 1701 13 20 and 1701 14 20), 1702 (except tariff item 1702 90 10) and 1704, the entry “12.5%” shall be substituted;

(vi) in Chapter 18, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;

(vii) in Chapter 19,—

(a) for the entry in column (4) occurring against tariff items 1901 20 00, 1901 90 10 and 1901 90 90, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff items 1902 40 10 and 1902 40 90, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of heading 1904, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against tariff items 1905 32 11, 1905 32 19 and 1905 32 90, the entry “12.5%” shall be substituted;

(viii) in Chapter 21,—

(a) for the entry in column (4) occurring against all the tariff items of heading 2101 (except tariff items 2101 30 10, 2101 30 20 and 2101 30 90), the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against all the tariff items of headings 2102, 2103 and 2104, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of heading 2106 (except tariff items 2106 90 20 and 2106 90 92), the entry “12.5%” shall be substituted;

(ix) in Chapter 22,—

(a) for the entry in column (4) occurring against all the tariff items of heading 2201 (except tariff item 2201 90 10), the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff items 2202 10 10, 2202 10 20 and 2202 10 90, the entry “18%” shall be substituted;

(c) for the entry in column (4) occurring against tariff items 2202 90 30 and 2202 90 90, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against tariff item 2207 20 00, the entry “12.5%” shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of heading 2209, the entry “12.5%” shall be substituted;

(x) in Chapter 24,—

(a) for the entry in column (4) occurring against tariff items 2402 10 10 and 2402 10 20, the entry “12.5% or Rs.3375 per thousand, whichever is higher” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 2402 20 10, the entry “Rs. 1280 per thousand” shall be substituted;

(c) for the entry in column (4) occurring against tariff item 2402 20 20, the entry “Rs. 2335 per thousand” shall be substituted;

(d) for the entry in column (4) occurring against tariff item 2402 20 30, the entry “Rs. 1280 per thousand” shall be substituted;

(e) for the entry in column (4) occurring against tariff item 2402 20 40, the entry “Rs. 1740 per thousand” shall be substituted;

(f) for the entry in column (4) occurring against tariff item 2402 20 50, the entry “Rs. 2335 per thousand” shall be substituted;

(g) for the entry in column (4) occurring against tariff item 2402 20 90, the entry “Rs. 3375 per thousand” shall be substituted;

(h) for the entry in column (4) occurring against tariff item 2402 90 10, the entry “Rs. 3375 per thousand” shall be substituted;

(i) for the entry in column (4) occurring against tariff items 2402 90 20 and 2402 90 90, the entry “12.5% or Rs. 3375 per thousand, whichever is higher” shall be substituted;

(j) for the entry in column (4) occurring against tariff item 2403 99 70, the entry “Rs.70 per kg.” shall be substituted;

(xi) in Chapter 25,—

(a) for the entry in column (4) occurring against tariff item 2503 00 10, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff items 2515 12 20 and 2515 12 90, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against tariff item 2523 10 00, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against tariff item 2523 21 00, the entry “12.5%” shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of sub-heading 2523 29, the entry “Rs.1000 per tonne” shall be substituted;

(f) for the entry in column (4) occurring against tariff items 2523 30 00, 2523 90 10, 2523 90 20 and 2523 90 90, the entry “12.5%” shall be substituted;

(xii) in Chapter 26, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;

(xiii) in Chapter 27, for the entry in column (4) occurring against tariff item 2710 19 30, the entry “14% + Rs. 15 per litre” shall be substituted;

(xiv) in Chapter 28, for the entry in column (4) occurring against all the tariff items (except tariff items 2804 40 10, 2844 30 22, 2845 10 00, 2845 90 10 and 2853 00 30), the entry “12.5%” shall be substituted;

(xv) in Chapter 29, for the entry in column (4) occurring against all the tariff items (except tariff item 2933 41 00), the entry “12.5%” shall be substituted;

(xvi) in Chapter 31, for the entry in column (4) occurring against all the tariff items of headings 3102, 3103, 3104 and 3105, the entry “12.5%” shall be substituted;

(xvii) in Chapter 32, for the entry in column (4) occurring against all the tariff items (except tariff items 3215 90 10 and 3215 90 20), the entry “12.5%” shall be substituted;

(xviii) in Chapter 33, for the entry in column (4) occurring against all the tariff items (except tariff item 3307 41 00), the entry “12.5%” shall be substituted;

(xix) in Chapter 34, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;

(xx) in Chapter 35, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;

(xxi) in Chapter 36, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;

(xxii) in Chapter 37, for the entry in column (4) occurring against all the tariff items of headings 3701, 3702, 3703, 3704 and 3707, the entry “12.5%” shall be substituted;

(xxiii) in Chapter 38, for the entry in column (4) occurring against all the tariff items (except tariff items 3824 50 10, 3825 10 00, 3825 20 00 and 3825 30 00), the entry “12.5%” shall be substituted;

(xxiv) in Chapter 39,—

(a) for the entry in column (4) occurring against all the tariff items (except tariff items 3916 10 20, 3916 20 11, 3916 20 91, 3916 90 10, 3923 21 00, 3923 29 10 and 3923 29 90), the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against the tariff items 3923 21 00, 3923 29 10 and 3923 29 90, the entry "18%" shall be substituted;

(xxv) in Chapter 40,—

(a) for the entry in column (4) occurring against all the tariff items of heading 4002, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff items 4003 00 00 and 4004 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 4005 to 4007, 4008 (except tariff items 4008 19 10, 4008 21 10 and 4008 29 20) and 4009 to 4011, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff items 4012 90 10 to 4012 90 90, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 4013, 4014 (except tariff items 4014 10 10 and 4014 10 20), 4015, 4016 and 4017, the entry "12.5%" shall be substituted;

(xxvi) in Chapter 42, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xxvii) in Chapter 43, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xxviii) in Chapter 44,—

(a) for the entry in column (4) occurring against all the tariff items of headings 4401, 4403, 4404, 4406, 4408 (except tariff items 4408 10 30, 4408 31 30, 4408 39 30 and 4408 90 20) and 4409 to 4412, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff items 4413 00 00 and 4414 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 4415 and 4416, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff item 4417 00 00, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 4418 to 4421, the entry "12.5%" shall be substituted;

(xxix) in Chapter 45, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xxx) in Chapter 47, for the entry in column (4) occurring against all the tariff items of heading 4707, the entry "12.5%" shall be substituted;

(xxxi) in Chapter 48,—

(a) for the entry in column (4) occurring against all the tariff items of headings 4803, 4806 (except tariff items 4806 20 00 and 4806 40 10), 4809 and 4811, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 4812 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 4813, 4814, 4816, 4818, 4819 (except tariff item 4819 20 10), 4820 to 4822 and 4823 (except tariff item 4823 90 11), the entry "12.5%" shall be substituted;

(xxxii) in Chapter 49, for the entry in column (4) occurring against all the tariff items of heading 4908, the entry "12.5%" shall be substituted;

(xxxiii) in Chapter 50, for the entry in column (4) occurring against all the tariff items of headings 5004 to 5007, the entry "12.5%" shall be substituted;

(xxxiv) in Chapter 51, for the entry in column (4) occurring against all the tariff items of headings 5105 to 5113, the entry "12.5%" shall be substituted;

(xxxv) in Chapter 52, for the entry in column (4) occurring against all the tariff items of headings 5204 to 5212, the entry "12.5%" shall be substituted;

(xxxvi) in Chapter 53, for the entry in column (4) occurring against all the tariff items of headings 5302, 5305, 5306, 5307 (except tariff item 5307 10 90), 5308 (except tariff items 5308 10 10, 5308 10 20 and 5308 10 90), 5309, 5310 and 5311, the entry "12.5%" shall be substituted;

(xxxvii) in Chapter 54, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xxxviii) in Chapter 55, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xxxix) in Chapter 56, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xl) in Chapter 57, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xli) in Chapter 58, for the entry in column (4) occurring against all the tariff items of headings 5801, 5802, 5803, 5804 (except tariff item 5804 30 00), 5806 and 5808 to 5811, the entry "12.5%" shall be substituted;

(xlii) in Chapter 59, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xliii) in Chapter 60, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xliv) in Chapter 61, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xlv) in Chapter 62, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xlvi) in Chapter 63,—

(a) for the entry in column (4) occurring against all the tariff items of headings 6301 to 6307, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 6308 00 00, the entry "12.5%" shall be substituted;

(xlvii) in Chapter 64, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xlviii) in Chapter 65, for the entry in column (4) occurring against all the tariff items (except tariff item 6503 00 00), the entry "12.5%" shall be substituted;

(xlix) in Chapter 66, for the entry in column (4) occurring against all the tariff items of heading 6603, the entry "12.5%" shall be substituted;

(l) in Chapter 67, for the entry in column (4) occurring against all the tariff items of headings 6702 to 6704, the entry "12.5%" shall be substituted;

(li) in Chapter 68, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lii) in Chapter 69, for the entry in column (4) occurring against all the tariff items (except tariff items 6901 00 10 and 6904 10 00), the entry "12.5%" shall be substituted;

(liii) in Chapter 70, for the entry in column (4) occurring against all the tariff items (except tariff items 7012 00 00, 7018 10 10, 7018 10 20, 7020 00 11, 7020 00 12 and 7020 00 21), the entry "12.5%" shall be substituted;

(liv) in Chapter 71,—

(a) for the entry in column (4) occurring against all the tariff items of headings 7101, 7103, 7104 (except tariff item 7104 10 00), 7105 and 7106, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 7107 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of heading 7108, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff item 7109 00 00, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of heading 7110, the entry "12.5%" shall be substituted;

(f) for the entry in column (4) occurring against tariff item 7111 00 00, the entry "12.5%" shall be substituted;

(g) for the entry in column (4) occurring against all the tariff items of headings 7112 to 7116 and 7118, the entry "12.5%" shall be substituted;

(lv) in Chapter 72, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lvi) in Chapter 73, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lvii) in Chapter 74,—

(a) for the entry in column (4) occurring against all the tariff items of headings 7401 to 7404, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 7405 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 7406 to 7412, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff item 7413 00 00, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 7415, 7418 and 7419, the entry "12.5%" shall be substituted;

(lviii) in Chapter 75, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lix) in Chapter 76, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lx) in Chapter 78, for the entry in column (4) occurring against all the tariff items of headings 7801, 7802, 7804 and 7806, the entry "12.5%" shall be substituted;

(lxi) in Chapter 79, for the entry in column (4) occurring against all the tariff items of headings 7901 to 7905 and 7907, the entry "12.5%" shall be substituted;

(lxii) in Chapter 80, for the entry in column (4) occurring against all the tariff items of headings 8001, 8002, 8003 and 8007, the entry "12.5%" shall be substituted;

(lxiii) in Chapter 81, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lxiv) in Chapter 82, for the entry in column (4) occurring against all the tariff items (except tariff items 8215 10 00, 8215 20 00, 8215 91 00 and 8215 99 00), the entry "12.5%" shall be substituted;

(lxv) in Chapter 83, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lxvi) in Chapter 84, for the entry in column (4) occurring against all the tariff items of headings 8401 to 8423, 8424 (except tariff item 8424 81 00), 8425 to 8431, 8434, 8435, 8438 to 8451, 8452 (except tariff items 8452 10 12, 8452 10 22, 8452 30 10, 8452 30 90, 8452 90 11, 8452 90 19, 8452 90 91 and 8452 90 99), 8453 to 8468, 8469 (except tariff items 8469 00 30 and 8469 00 40), 8470 to 8478, 8479 (except tariff item 8479 89 92), 8480 to 8484, 8486 and 8487, the entry "12.5%" shall be substituted;

(lxvii) in Chapter 85,—

(a) for the entry in column (4) occurring against all the tariff items of headings 8501 to 8519, 8521, 8522, 8523, 8525 to 8533, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 8534 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 8535 to 8547, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff item 8548 90 00, the entry "12.5%" shall be substituted;

(lxviii) in Chapter 86,—

(a) for the entry in column (4) occurring against tariff item 8604 00 00, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against all the tariff items of headings 8607 and 8608, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against tariff item 8609 00 00, the entry "12.5%" shall be substituted;

(lxix) in Chapter 87,—

(a) for the entry in column (4) occurring against all the tariff items of headings 8701, 8702 (except tariff items 8702 10 11, 8702 10 12, 8702 10 19, 8702 90 11, 8702 90 12 and 8702 90 19), the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff items 8703 10 10 and 8703 90 10, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 8704 (except tariff items 8704 10 90, 8704 31 90, 8704 32 19, 8704 32 90, 8704 90 19 and 8704 90 90) and 8705, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff items 8706 00 11, 8706 00 19, 8706 00 31, 8706 00 41 and 8706 00 50, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 8707, 8708 and 8709, the entry "12.5%" shall be substituted;

(f) for the entry in column (4) occurring against tariff item 8710 00 00, the entry "12.5%" shall be substituted;

(g) for the entry in column (4) occurring against all the tariff items of headings 8711, 8712 and 8714 to 8716, the entry "12.5%" shall be substituted;

(lxx) in Chapter 88, for the entry in column (4) occurring against all the tariff items of headings 8802 (except tariff item 8802 60 00) and 8803, the entry "12.5%" shall be substituted;

(lxxi) in Chapter 89,—

(a) for the entry in column (4) occurring against all the tariff items of headings 8903 and 8907, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 8908 00 00, the entry "12.5%" shall be substituted;

(lxxii) in Chapter 90,—

(a) for the entry in column (4) occurring against all the tariff items of headings 9001 (except tariff items 9001 40 10, 9001 40 90 and 9001 50 00), 9002 to 9008, 9010 to 9016, 9017 (except tariff items 9017 20 10, 9017 20 20, 9017 20 30 and 9017 20 90), 9018 and 9019, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 9020 00 00, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 9022 to 9032, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against tariff item 9033 00 00, the entry “12.5%” shall be substituted;

(lxxiii) in Chapter 91, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;

(lxxiv) in Chapter 92,—

(a) for the entry in column (4) occurring against all the tariff items of headings 9201, 9202 and 9205, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 9206 00 00, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 9207 to 9209, the entry “12.5%” shall be substituted;

(lxxv) in Chapter 93,—

(a) for the entry in column (4) occurring against tariff item 9302 00 00, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against all the tariff items of heading 9303, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against tariff item 9304 00 00, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against all the tariff items of headings 9305 and 9306, the entry “12.5%” shall be substituted;

(e) for the entry in column (4) occurring against tariff item 9307 00 00, the entry “12.5%” shall be substituted;

(lxxvi) in Chapter 94, for the entry in column (4) occurring against all the tariff items (except tariff item 9405 50 10), the entry “12.5%” shall be substituted;

(lxxvii) in Chapter 95, for the entry in column (4) occurring against all the tariff items of headings 9503 to 9508 (except tariff item 9508 10 00), the entry “12.5%” shall be substituted;

(lxxviii) in Chapter 96,—

(a) for the entry in column (4) occurring against all the tariff items of headings 9601 to 9603, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 9604 00 00, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 9605, 9606 (except tariff items 9606 21 00, 9606 22 00, 9606 29 10, 9606 29 90 and 9606 30 10) and 9607 to 9608, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against tariff item 9611 00 00, the entry “12.5%” shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 9612 and 9613, the entry “12.5%” shall be substituted;

- (f) for the entry in column (4) occurring against tariff item 9614 00 00, the entry "12.5%" shall be substituted;
- (g) for the entry in column (4) occurring against all the tariff items of headings 9616 and 9617, the entry "12.5%" shall be substituted;
- (h) for the entry in column (4) occurring against tariff item 9618 00 00, the entry "12.5%" shall be substituted.

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 15th October, 2015.

No. RPB/457-2015/Act-21-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 26th May, 2015, Jayeshtha 08, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 25th May, 2015 is hereby published for general information :-

THE COMPANIES (AMENDMENT) ACT, 2015

AN

(Act No. 21 of 2015)

ACT

[25th May, 2015.]

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 2015.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

18 of 2013.

2. In section 2 of the Companies Act, 2013 (hereinafter referred to as the principal Act),—

Amendment
of section 2.

(i) in clause (68), the words “of one lakh rupees or such higher paid-up share capital” shall be omitted;

(ii) in clause (71), in sub-clause (b), the words “of five lakh rupees or such higher paid-up capital,” shall be omitted.

3. In section 9 of the principal Act, the words “and a common seal” shall be omitted.

Amendment
of section 9.

4. Section 11 of the principal Act, shall be omitted.

Omission of
section 11.

Amendment
of section 12.

5. In section 12 of the principal Act, in sub-section (3), for clause (b), the following clause shall be substituted, namely:—

“(b) have its name engraved in legible characters on its seal, if any;”.

Amendment
of section 22.

6. In section 22 of the principal Act,—

(i) in sub-section (2),—

(a) for the words “under its common seal”, the words “under its common seal, if any,” shall be substituted;

(b) the following proviso shall be inserted, namely:—

“Provided that in case a company does not have a common seal, the authorisation under this sub-section shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.”;

(ii) in sub-section (3), the words “and have the effect as if it were made under its common seal” shall be omitted.

Amendment
of section 46.

7. In section 46 of the principal Act, in sub-section (1), for the words “issued under the common seal of the company”, the words “issued under the common seal, if any, of the company” or signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary” shall be substituted.

Insertion of
new section
76A.

8. After section 76 of the principal Act, the following section shall be inserted, namely:—

“76A. Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—

(a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees; and

(b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both:

Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.”.

Amendment
of section
117.

9. In section 117 of the principal Act, in sub-section (3),—

(i) in clause (g), the word “and” occurring at the end shall be omitted;

(ii) after clause (g), the following proviso shall be inserted, namely:—

“Provided that no person shall be entitled under section 399 to inspect or obtain copies of such resolutions; and”.

Amendment
of section
123.

10. In section 123 of the principal Act, in sub-section (1), after the third proviso, the following proviso shall be inserted, namely:—

“Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.”.

11. In section 124 of the principal Act, in sub-section (6),—Amendment
of section
124.

(i) for the words, brackets and figure “unpaid or unclaimed dividend has been transferred under sub-section (5) shall also be”, the words “dividend has not been paid or claimed for seven consecutive years or more shall be” shall be substituted;

(ii) after the proviso, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby clarified that in case any dividend is paid or claimed for any year during the said period of seven consecutive years, the share shall not be transferred to Investor Education and Protection Fund.”.

12. In section 134 of the principal Act, in sub-section (3), after clause (c), the following clause shall be inserted, namely:—Amendment
of section
134.

“(ca) details in respect of frauds reported by auditors under sub-section (12) of section 143 other than those which are reportable to the Central Government;”.

13. In section 143 of the principal Act, for sub-section (12), the following sub-section shall be substituted, namely:—Amendment
of section
143.

“(12) Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed:

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed:

Provided further that the companies, whose auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed.”.

14. In section 177 of the principal Act, in sub-section (4), in clause (iv), the following proviso shall be inserted, namely:—Amendment
of section
177.

“Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;”.

15. In section 185 of the principal Act, in sub-section (1), in the proviso, after clause (b), the following clauses and proviso shall be inserted, namely:—Amendment
of section
185.

“(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or

(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:

Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for its principal business activities.”.

Amendment
of section
188.

16. In section 188 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "special resolution", at both the places where they occur, the word "resolution" shall be substituted;

(ii) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that the requirement of passing the resolution under first proviso shall not be applicable for transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.";

(b) in sub-section (3), for the words "special resolution", the word "resolution" shall be substituted.

Amendment
of section
212.

17. In section 212 of the principal Act, in sub-section (6), for the words, brackets and figures "the offences covered under sub-sections (5) and (6) of section 7, section 34, section 36, sub-section (1) of section 38, sub-section (5) of section 46, sub-section (7) of section 56, sub-section (10) of section 66, sub-section (5) of section 140, sub-section (4) of section 206, section 213, section 229, sub-section (1) of section 251, sub-section (3) of section 339 and section 448 which attract the punishment for fraud provided in section 447", the words and figures "offence covered under section 447" shall be substituted.

Amendment
of section
223.

18. In section 223 of the principal Act, in sub-section (4), in clause (a), for the words "by the seal", the words "by the seal, if any," shall be substituted.

Amendment
of section
248.

19. In section 248 of the principal Act, in sub-section (1),—

(i) in clause (a), after the word 'incorporation', the word 'or' shall be inserted;

(ii) clause (b) shall be omitted.

Amendment
of section
419.

20. In section 419 of the principal Act, in sub-section (4), the words "or winding up" shall be omitted.

Amendment
of section
435.

21. In section 435 of the principal Act, in sub-section (1),—

(i) for the words "trial of offences under this Act", the words "trial of offences punishable under this Act with imprisonment of two years or more" shall be substituted;

(ii) the following proviso shall be inserted, namely:—

"Provided that all other offences shall be tried, as the case may be, by a Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous company law."

Amendment
of section
436.

22. In section 436 of the principal Act, in sub-section (1), in clause (a), for the words "all offences under this Act", the words, brackets and figures "all offences specified under sub-section (1) of section 435" shall be substituted.

Amendment
of section
462.

23. In section 462 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in Session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

(3) In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in sub-section (2) is prorogued or adjourned for more than four consecutive days.

(4) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.”

Sd/-

Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

C. J. Gothi,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 15th October, 2015.

No. RPB/456-2015/Act-22-15/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 27th May, 2015, Jayeshtha 09, 1937 (Sake)

The following Act of Parliament has received the assent of the President on the 26th May, 2015 is hereby published for general information :-

THE BLACK MONEY (UNDISCLOSED FOREIGN INCOME AND ASSETS) AND IMPOSITION OF TAX ACT, 2015

AN

(Act No. 22 of 2015)

ACT

[26th May, 2015.]

to make provisions to deal with the problem of the Black money that is undisclosed foreign income and assets, the procedure for dealing with such income and assets and to provide for imposition of tax on any undisclosed foreign income and asset held outside India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

(2) It extends to the whole of India.

(3) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 2016.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act;

(2) "assessee" means a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, by whom tax in respect of undisclosed foreign income and assets, or any other sum of money, is payable under this Act and includes every person who is deemed to be an assessee in default under this Act;

(3) "assessment" includes reassessment;

(4) "assessment year" means the period of twelve months commencing on the 1st day of April every year;

(5) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

54 of 1963.

(6) "Income-tax Act" means the Income-tax Act, 1961;

43 of 1961.

(7) "participant" means—

(a) a partner in relation to a firm; or

(b) a member in relation to an association of persons or body of individuals;

(8) "prescribed" means prescribed by rules made under this Act;

(9) "previous year" means—

(a) the period beginning with the date of setting up of a business and ending with the date of the closure of the business or the 31st day of March following the date of setting up of such business, whichever is earlier;

(b) the period beginning with the date on which a new source of income comes into existence and ending with the date of closure of the business or the 31st day of March following the date on which such new source comes into existence, whichever is earlier;

(c) the period beginning with the 1st day of the financial year and ending with the date of discontinuance of the business other than business referred to in clause (b) or dissolution of an unincorporated body or liquidation of a company, as the case may be; or

(d) the period of twelve months commencing on the 1st day of April of the relevant year in any other case,

and which immediately precedes the assessment year.

(10) "resident" means a person who is resident in India within the meaning of section 6 of the Income-tax Act;

(11) "undisclosed asset located outside India" means an asset (including financial interest in any entity) located outside India, held by the assessee in his name or in respect of which he is a beneficial owner, and he has no explanation about the source of investment in such asset or the explanation given by him is in the opinion of the Assessing Officer unsatisfactory;

(12) "undisclosed foreign income and asset" means the total amount of undisclosed income of an assessee from a source located outside India and the value of an undisclosed asset located outside India, referred to in section 4, and computed in the manner laid down in section 5;

(13) "unincorporated body" means—

(a) a firm;

(b) an association of persons; or

(c) a body of individuals;

(14) "value of an undisclosed asset" shall have the meaning assigned to it in sub-section (2) of section 3;

(15) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

BASIS OF CHARGE

3. (1) There shall be charged on every assessee for every assessment year commencing on or after the 1st day of April, 2016, subject to the provisions of this Act, a tax in respect of his total undisclosed foreign income and asset of the previous year at the rate of thirty per cent. of such undisclosed income and asset:

Charge of tax.

Provided that an undisclosed asset located outside India shall be charged to tax on its value in the previous year in which such asset comes to the notice of the Assessing Officer.

(2) For the purposes of this section, "value of an undisclosed asset" means the fair market value of an asset (including financial interest in any entity) determined in such manner as may be prescribed.

4. (1) Subject to the provisions of this Act, the total undisclosed foreign income and asset of any previous year of an assessee shall be,—

Scope of total undisclosed foreign income and asset.

(a) the income from a source located outside India, which has not been disclosed in the return of income furnished within the time specified in *Explanation 2* to sub-section (1) or under sub-section (4) or sub-section (5) of section 139 of the Income-tax Act;

(b) the income, from a source located outside India, in respect of which a return is required to be furnished under section 139 of the Income-tax Act but no return of income has been furnished within the time specified in *Explanation 2* to sub-section (1) or under sub-section (4) or sub-section (5) of section 139 of the said Act; and

(c) the value of an undisclosed asset located outside India.

(2) Notwithstanding anything contained in sub-section (1), any variation made in the income from a source outside India in the assessment or reassessment of the total income of any previous year, of the assessee under the Income-tax Act in accordance with the provisions of section 29 to section 43C or section 57 to section 59 or section 92C of the said Act, shall not be included in the total undisclosed foreign income.

(3) The income included in the total undisclosed foreign income and asset under this Act shall not form part of the total income under the Income-tax Act.

5. (1) In computing the total undisclosed foreign income and asset of any previous year of an assessee,—

Computation of total undisclosed foreign income and asset.

(i) no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee, whether or not it is allowable in accordance with the provisions of the Income-tax Act;

(ii) any income,—

(a) which has been assessed to tax for any assessment year under the Income-tax Act prior to the assessment year to which this Act applies; or

(b) which is assessable or has been assessed to tax for any assessment year under this Act,

shall be reduced from the value of the undisclosed asset located outside India, if, the assessee furnishes evidence to the satisfaction of the Assessing Officer that the asset has been acquired from the income which has been assessed or is assessable, as the case may be, to tax.

(2) The amount of deduction referred to in clause (ii) of sub-section (1) in case of an immovable property shall be the amount which bears to the value of the asset as on the first day of the financial year in which it comes to the notice of the Assessing Officer, the same proportion as the assessable or assessed foreign income bears to the total cost of the asset.

Illustration

A house property located outside India was acquired by an assessee in the previous year 2009-10 for fifty lakh rupees. Out of the investment of fifty lakh rupees, twenty lakh rupees was assessed to tax in the total income of the previous year 2009-10 and earlier years. Such undisclosed asset comes to the notice of the Assessing Officer in the year 2017-18. If the value of the asset in the year 2017-18 is one crore rupees, the amount chargeable to tax shall be $A-B=C$

where,

$A = \text{Rs. 1 crore}$, $B = \text{Rs. } (100 \times 20/50) \text{ lakh} = \text{Rs. 40 lakh}$, $C = \text{Rs. } (100-40) \text{ lakh} = \text{Rs. 60 lakh}$.

CHAPTER III

TAX MANAGEMENT

Tax authorities.

6. (1) The income-tax authorities specified in section 116 of the Income-tax Act shall be the tax authorities for the purposes of this Act.

(2) Every such authority shall exercise the powers and perform the functions of a tax authority under this Act in respect of any person within his jurisdiction.

(3) Subject to the provisions of sub-section (4), the jurisdiction of a tax authority under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning the concurrent jurisdiction) or under any other provision of that Act.

(4) The tax authority having jurisdiction in relation to an assessee who has no income assessable to income-tax under the Income-tax Act shall be the tax authority having jurisdiction in respect of the area in which the assessee resides or carries on its business or has its principal place of business.

(5) Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any tax authority.

Change of incumbent.

7. (1) The tax authority who succeeds another authority as a result of change in jurisdiction or for any other reason, shall continue the proceedings from the stage at which it was left by his predecessor.

(2) The assessee in such a case may be given an opportunity of being heard, if he so requests in writing, before passing any order in his case.

Powers regarding discovery and production of evidence.

8. (1) The prescribed tax authorities shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

5 of 1908.

- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

(2) For the purposes of making any inquiry or investigation, the prescribed tax authority shall be vested with the powers referred to in sub-section (1), whether or not any proceedings are pending before it.

(3) Any tax authority prescribed for the purposes of sub-section (1) or sub-section (2) may, subject to the rules made in this behalf, impound any books of account or other documents produced before it and retain them in its custody for such period as it thinks fit.

(4) Any tax authority below the rank of Commissioner shall not—

(a) impound any books of account or other documents without recording his reasons for doing so; or

(b) retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner.

9. (1) Any proceeding under this Act before a tax authority shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 and for the purposes of section 196 of the Indian Penal Code.

Proceedings
before tax
authorities to
be judicial
proceedings.

45 of 1860.

(2) Every tax authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

10. (1) For the purposes of making an assessment or reassessment under this Act, the Assessing Officer may, on receipt of an information from an income-tax authority under the Income-tax Act or any other authority under any law for the time being in force or on coming of any information to his notice, serve on any person, a notice requiring him on a date to be specified to produce or cause to be produced such accounts or documents or evidence as the Assessing Officer may require for the purposes of this Act and may, from time to time, serve further notices requiring the production of such other accounts or documents or evidence as he may require.

Assessment.

(2) The Assessing Officer may make such inquiry, as he considers necessary, for the purpose of obtaining full information in respect of undisclosed foreign income and asset of any person for the relevant financial year or years.

(3) The Assessing Officer, after considering such accounts, documents or evidence, as he has obtained under sub-section (1), and after taking into account any relevant material which he has gathered under sub-section (2) and any other evidence produced by the assessee, shall by an order in writing, assess the undisclosed foreign income and asset and determine the sum payable by the assessee.

(4) If any person fails to comply with all the terms of the notice under sub-section (1), the Assessing Officer shall, after taking into account all the relevant material which he has gathered and after giving the assessee an opportunity of being heard, make the assessment of undisclosed foreign income and asset to the best of his judgment and determine the sum payable by the assessee.

11. (1) No order of assessment or reassessment shall be made under section 10 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of section 10 was issued by the Assessing Officer.

Time limit for
completion of
assessment and
reassessment.

(2) Notwithstanding anything contained in sub-section (1), an order of fresh assessment in pursuance of an order passed under section 18 setting aside or cancelling an assessment, may be made at any time before the expiry of the period of two years from the end of the financial year in which the order under section 18 is received by the Principal Commissioner or the Commissioner.

(3) The provisions of sub-section (1) shall not apply to the assessment or reassessment made in consequence of, or to give effect to, any finding or direction contained in an order under section 15 or section 18 or section 19 or section 22 of this Act or in an order of any court in a proceeding otherwise than by way of appeal under this Act and such assessment or reassessment may, subject to the provisions of sub-section (2), be completed at any time, before the expiry of the period of two years from the end of the financial year in which such order is received by the Principal Commissioner or the Commissioner.

Explanation 1.—In computing the period of limitation for the purpose of this section—

(i) the time taken in reopening the whole or any part of the proceeding; or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(iii) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A of the Income-tax Act or under section 73 of this Act and ending with the date on which the Principal Commissioner or the Commissioner last receives the information so requested or a period of one year, whichever is less,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid time or period, the period of limitation referred to in sub-sections (1), (2) and (3) available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

Explanation 2.—Where, by an order referred to in sub-section (3), any undisclosed foreign income and asset is excluded from the total undisclosed foreign income and asset for an assessment year in respect of an assessee, then, an assessment of such undisclosed foreign income and asset for another assessment year shall, for the purposes of section 10 and this section, be deemed to be one made in consequence of, or to give effect to, any finding or direction contained in the said order.

12. (1) A tax authority may amend any order passed by it under this Act so as to rectify any mistake apparent from the record.

(2) No amendment under this section shall be made after a period of four years from the end of the financial year in which the order sought to be amended was passed.

(3) The tax authority shall not make any amendment, which has the effect of enhancing the undisclosed foreign income and asset or reducing a refund or otherwise increasing the liability of the assessee, unless the authority concerned has given to the assessee an opportunity of being heard.

(4) The tax authority concerned may make an amendment under this section—

(a) on its own motion; or

(b) on an application made to it by the assessee or, as the case may be, by the Assessing Officer.

Rectification
of mistake.

(5) Any application received by the tax authority for amendment of an order shall be decided within a period of six months from the end of the month in which such application is received by it.

(6) In a case where the order has been made in an appeal or revision, the power of the tax authority to amend the order shall be restricted to matters other than those decided in appeal or revision.

13. Any sum payable in consequence of any order made under this Act shall be demanded by a tax authority by serving upon the assessee a notice of demand in such form and manner as may be prescribed.

Notice of demand.

14. Nothing in this Chapter shall prevent either the direct assessment of the person on whose behalf or for whose benefit the undisclosed income from a source located outside India is receivable or undisclosed asset located outside India is held, or the recovery from such person of the tax or any other sum of money payable in respect of such income and asset.

Direct assessment or recovery not barred.

15. (1) Any person, — (a) objecting to the amount of tax on undisclosed foreign income and asset for which he is assessed by the Assessing Officer; or (b) denying his liability to be assessed under this Act; or (c) objecting to any penalty imposed by the Assessing Officer; or (d) objecting to an order of rectification having the effect of enhancing the assessment or reducing the refund; or (e) objecting to an order refusing to allow the claim made by the assessee for a rectification under section 12, may appeal to the Commissioner (Appeals).

Appeals to the Commissioner (Appeals).

(2) Every appeal shall be filed in such form and verified in such manner and be accompanied by a fee as may be prescribed.

(3) An appeal shall be presented within a period of thirty days from —

(a) the date of service of the notice of demand relating to the assessment or penalty, or

(b) the date on which the intimation of the order sought to be appealed against is served in any other case.

(4) The Commissioner (Appeals) may admit an appeal after the expiration of the period referred to in sub-section (3) —

(a) if he is satisfied that the appellant had sufficient cause for not presenting it within that period; and

(b) the delay in preferring the appeal does not exceed a period of one year.

(5) The Commissioner (Appeals) shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing the assessment or penalty shall not be made unless the assessee has been given a reasonable opportunity of being heard.

16. (1) The Commissioner (Appeals) shall fix a date and place for the hearing of the appeal, and shall give notice of the same to the appellant and the Assessing Officer against whose order the appeal is preferred.

Procedure to be followed in appeal.

(2) The following shall have the right to be heard at the hearing of the appeal, namely:—

(a) the appellant, either in person or by an authorised representative;

(b) the Assessing Officer, either in person or by a representative.

(3) The Commissioner (Appeals) may adjourn the hearing of the appeal whenever he considers it necessary or expedient to do so.

(4) The Commissioner (Appeals) may, before disposing of any appeal, make such further inquiry as he thinks fit.

(5) The Commissioner (Appeals) may, during the proceedings before him, direct the Assessing Officer to make an inquiry and report to him on the points arising out of any question of law or fact.

(6) The Commissioner (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Commissioner (Appeals) is satisfied that the omission was not wilful or unreasonable.

(7) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons therefor.

(8) Every appeal preferred under section 15 shall be heard and disposed of by the Commissioner (Appeals) as expeditiously as possible and endeavour shall be made to dispose of such appeal within a period of one year from the end of the financial year in which the appeal is preferred.

(9) On the disposal of the appeal, the Commissioner (Appeals) shall communicate the order passed by him to the assessee and to the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner.

Powers of
Commissioner
(Appeals).

17. (1) In disposing of an appeal, the Commissioner (Appeals) shall have the following powers, namely:—

(a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment;

(b) in an appeal against an order imposing a penalty, he may confirm or cancel such order;

(c) in any other case, he may determine the issues arising in the appeal and pass such orders thereon, as he thinks fit.

(2) The Commissioner (Appeals) may consider and decide any matter which was not considered by the Assessing Officer.

(3) The Commissioner (Appeals) shall not enhance an assessment or a penalty unless the appellant has been given an opportunity of being heard.

(4) In disposing of an appeal, the Commissioner (Appeals) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before him by the appellant.

Appeals to
Appellate
Tribunal.

18. (1) Any assessee aggrieved by an order passed by the Commissioner (Appeals) under section 15, or an order passed by the Principal Commissioner or the Commissioner under any provision of this Act, may appeal to the Appellate Tribunal against such order.

(2) The Principal Commissioner or the Commissioner may, if he objects to any order passed by the Commissioner (Appeals) under any provision of this Act, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within a period of sixty days from the date on which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or the Commissioner, as the case may be.

(4) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Commissioner (Appeals) has been preferred under sub-section (1) or sub-section (2) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against

any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (3) or sub-section (4), if —

(a) it is satisfied that there was sufficient cause for not presenting it within that period; and

(b) the delay in filing the appeal does not exceed a period of one year.

(6) An appeal to the Appellate Tribunal shall be filed in such form, and verified in such manner, and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee as may be prescribed.

(7) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

19. (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

Appeal to High Court.

(2) The Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or an assessee, may file an appeal to the High Court on being aggrieved by any order passed by the Appellate Tribunal and such appeal shall be —

(a) filed within a period of one hundred and twenty days from the date on which the order appealed against is received by the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the assessee;

(b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) The High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in sub-section (2), if it is satisfied that there was sufficient cause for not filing the appeal within that period.

(4) If the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question.

(6) Notwithstanding anything in sub-sections (4) and (5), the High Court may exercise its power to hear the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question of law.

(7) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(8) The High Court may determine any issue which —

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on the question of law referred to in sub-section (1).

(9) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, so far as may be, apply in the case of appeals under this section. 5 of 1908.

(10) When the High Court delivers a judgment in an appeal filed before it under sub-section (7), effect shall be given to the order passed on the appeal by the Assessing Officer on the basis of a certified copy of the judgment.

Case before High Court to be heard by not less than two Judges.

20. (1) An appeal filed before the High Court shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or if the Bench is of more than two Judges, by the majority of such Judges.

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

Appeal to Supreme Court.

21. An appeal shall lie to the Supreme Court from any judgment of the High Court delivered under section 19 which the High Court certifies to be a fit case for appeal to the Supreme Court.

Hearing before Supreme Court.

22. (1) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 21 as they apply in the case of appeals from decrees of a High Court. 5 of 1908.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (10) of section 19.

Revision of orders prejudicial to revenue.

23. (1) The Principal Commissioner or the Commissioner may, for the purposes of revising any order passed in any proceeding under this Act before any tax authority subordinate to him, call for and examine all available records relating thereto.

(2) The Principal Commissioner or the Commissioner may, after giving the assessee an opportunity of being heard, pass an order (hereinafter referred to as the revision order) as the circumstances of the case justify, if he is satisfied that the order sought to be revised is erroneous in so far as it is prejudicial to the interests of the revenue.

(3) The Principal Commissioner or the Commissioner may make, or cause to be made, such inquiry as he considers necessary for the purposes of passing an order under sub-section (2).

(4) The revision order passed by the Principal Commissioner or the Commissioner under sub-section (2) may have the effect of enhancing or modifying the assessment but shall not be an order cancelling the assessment and directing a fresh assessment.

(5) The power of the Principal Commissioner or the Commissioner under sub-section (2) for revising an order shall extend to such matters as have not been considered and decided in any appeal.

(6) No order under sub-section (2) shall be made after the expiry of a period of two years from the end of the financial year in which the order sought to be revised was passed.

(7) Notwithstanding anything in sub-section (6), an order in revision under this section may be passed at any time in respect of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

(8) In computing the period of limitation under sub-section (6), the following shall not be included, namely:—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 7; or

(b) any period during which any proceeding under this section is stayed by an order or injunction of any court.

(9) Without prejudice to the generality of the foregoing provisions, an order passed by a tax authority shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if in the opinion of the Principal Commissioner or the Commissioner—

(a) the order is passed without making inquiries or verification which, should have been made; or

(b) the order has not been made in accordance with any order, direction or instruction issued by the Board; or

(c) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or the Supreme Court in the case of the assessee or any other person under this Act or the Income-tax Act.

(10) In this section, “record” shall include all records relating to any proceeding under this Act available at the time of examination by the Principal Commissioner or the Commissioner.

24. (1) The Principal Commissioner or the Commissioner may, either *suo motu* or on an application made by the assessee, for the purposes of revising any order passed by an authority subordinate to him, other than an order to which section 23 applies, call for and examine all available records relating thereto.

Revision of
other orders.

(2) The Principal Commissioner or the Commissioner may pass an order, as he considers necessary, which is not prejudicial to the assessee.

(3) The power of the Principal Commissioner or the Commissioner under sub-section (2) to revise an order shall not extend to such order—

(a) against which an appeal has not been filed but the time for filing an appeal before the Commissioner (Appeals) has not expired;

(b) against which an appeal is pending before the Commissioner (Appeals); or

(c) which has been considered and decided in any appeal.

(4) The assessee shall make the application for revision of any order referred to in sub-section (1), within a period of one year from the date on which the order sought to be revised was communicated to him, or the date on which he otherwise came to know of it, whichever is earlier.

(5) The Principal Commissioner or the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within the period of one year, admit an application made after the expiry of one year but before expiry of two years from the date referred to in sub-section (4).

(6) Every application by an assessee for revision under this section shall be accompanied by such fees as may be prescribed.

(7) No order under sub-section (2) shall be made after the expiry of—

(a) a period of one year from the end of the financial year in which an application is made by the assessee under sub-section (4); or

(b) a period of one year from the date of the order sought to be revised, if the order is revised *suo motu* by the Commissioner.

(8) In computing the period of limitation under sub-section (7), the following shall not be included, namely:—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 7; or

(b) any period during which any proceeding under this section is stayed by an order or injunction of any court.

(9) An order by the Principal Commissioner or the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

Tax to be paid pending appeal.

25. Notwithstanding any appeal preferred to the High Court or the Supreme Court, the tax shall be paid in accordance with the assessment made under this Act.

Execution of order for costs awarded by Supreme Court.

26. The High Court may, on petition made for the execution of the order in respect of the costs awarded by the Supreme Court, transmit such order for execution to any court subordinate to it.

Amendment of assessment on appeal.

27. Where as a result of an appeal under section 15 or section 18, any change is made in the assessment of a body of individuals or an association of persons or an order for new assessment of a body of individuals or an association of persons is made, the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made or make a fresh assessment on any member of the body or association.

Exclusion of time taken for obtaining copy.

28. In computing the period of limitation prescribed for an appeal under this Act, the day on which the notice of the order was served upon the assessee without serving a copy of the order, the time taken for obtaining a copy of such order, shall be excluded.

Filing of appeal by tax authority.

29. (1) The Board may, from time to time, issue orders, instructions or directions to other tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating the filing of appeal by any tax authority under this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), a tax authority has not filed any appeal on any issue in the case of an assessee for any financial year, it shall not preclude such authority from filing an appeal on the same issue in the case of—

(a) the same assessee for any other financial year; or

(b) any other assessee for the same or any other financial year.

(3) Notwithstanding that no appeal has been filed by a tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal, to contend that the tax authority has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

(4) The Appellate Tribunal, hearing such appeal, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal was filed or not filed in respect of any case.

(5) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.

30. (1) Any amount specified as payable in a notice of demand under section 13 shall be paid within a period of thirty days of the service of the notice, to the credit of the Central Government in such manner as may be prescribed.

Recovery of
tax dues by
Assessing
Officer.

(2) Where the Assessing Officer has any reason to believe that it will be detrimental to the interests of revenue, if the period of thirty days referred to in sub-section (1) is allowed, he may, with the previous approval of the Joint Commissioner, reduce such period as he deems fit.

(3) The Assessing Officer may, on an application made by the assessee, before the expiry of a period of thirty days or the period reduced under sub-section (2) or during the pendency of appeal with the Commissioner (Appeals), extend the time for payment, or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) An assessee shall be deemed to be an assessee in default, if the tax arrear is not paid within the time allowed under sub-section (1) or the period reduced under sub-section (2) or extended under sub-section (3), as the case may be.

(5) Where an assessee defaults in paying any one of the instalments within the time fixed under sub-section (3), he shall be deemed to be an assessee in default in respect of the whole of the then outstanding amount.

(6) The Assessing Officer may, in a case where no certificate has been drawn up under section 31 by the Tax Recovery Officer, recover the amount in respect of which the assessee is in default, or is deemed to be in default, by any one or more of the modes provided in section 32.

(7) The Tax Recovery Officer shall be vested with the powers to recover the tax arrear on drawing up of a statement of tax arrear under section 31.

31. (1) The Tax Recovery Officer may draw up under his signature a statement of tax arrears of an assessee referred to in sub-section (4) or sub-section (5) of section 30, in such form, as may be prescribed (such statement hereafter in this Chapter referred to as "certificate").

Recovery of
tax dues by Tax
Recovery
Officer.

(2) The certificate under sub-section (1) shall stand amended from time to time consequent to any proceeding under this Act and the Tax Recovery Officer shall recover the amount so modified.

(3) The Tax Recovery Officer may rectify any mistake apparent from the record.

(4) The Tax Recovery Officer shall have the power to extend the time for payment, or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(5) The Tax Recovery Officer shall proceed to recover from the assessee the amount specified in the certificate by one or more of the modes referred to in section 32 or in the Second Schedule to the Income-tax Act.

(6) It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do.

32. (1) The Assessing Officer or the Tax Recovery Officer may require the employer of the assessee to deduct from any payment to the assessee such amount as is sufficient to meet the tax arrear from the assessee.

Modes of
recovery of tax
dues.

(2) Upon requisition under sub-section (1), the employer shall comply with the requisition and shall pay the sum so deducted to the credit of the Central Government in such manner as may be prescribed.

(3) Any part of the salary, exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any requisition made under sub-section (1). 5 of 1908.

(4) The Assessing Officer or the Tax Recovery Officer may, by notice in writing, require any debtor of the assessee to pay such amount, not exceeding the amount of debt, as is sufficient to meet the tax arrear of the assessee.

(5) Upon receipt of the notice under sub-section (4), the debtor shall comply with the requisition and shall pay the sum to the credit of the Central Government in such manner as may be prescribed within the time (not being before the debt becomes due to the assessee) specified in the notice.

(6) A copy of the notice issued under sub-section (4) shall be forwarded to the assessee at his last address known to the Assessing Officer or the Tax Recovery Officer and in the case of a joint account, to all the joint holders at their last addresses known to the Assessing Officer or the Tax Recovery Officer.

(7) It shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary if the notice under sub-section (4) is issued to a post office, banking company, insurer or any other person.

(8) Any claim in respect of any property, in relation to which a notice under sub-section (4) has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(9) A person to whom a notice under sub-section (4) has been issued, shall not be required to pay the amount of tax arrear specified therein, or part thereof, if he objects to it by a statement on oath that the sum demanded, or any part thereof, is not due to the assessee or that he does not hold any money for, or on account of, the assessee.

(10) The person referred to in sub-section (9) shall be personally liable to the Assessing Officer or the Tax Recovery Officer, as the case may be, to the extent of his own liability to the assessee on the date of the notice, or to the extent of the liability of the assessee for any sum due under this Act, whichever is less, if it is discovered that the statement made by him was false in any respect.

(11) The Assessing Officer or the Tax Recovery Officer may amend or revoke any notice issued under sub-section (4) or extend the time for making any payment in pursuance of such notice.

(12) The Assessing Officer or the Tax Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under sub-section (4), and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid.

(13) Any person discharging any liability to the assessee after receipt of a notice under sub-section (4) shall be personally liable to the Assessing Officer or the Tax Recovery Officer to the extent of his own liability to the assessee so discharged or to the extent of the liability of the assessee for any sum due under this Act, whichever is less.

(14) The debtor to whom a notice under sub-section (4) is sent shall be deemed to be an assessee in default, if he fails to make such payment and further proceedings may be initiated against him for the realisation of the amount in the manner provided in this section and the Second Schedule to the Income-tax Act.

(15) The Assessing Officer or the Tax Recovery Officer may apply to the court, in whose custody there is money belonging to the assessee, for payment to him of the entire amount of such money or if it is more than the tax arrear, an amount sufficient to meet the tax arrear.

(16) The Assessing Officer or the Tax Recovery Officer shall effect the recovery of any tax arrear in the same manner as attachment, distraint and sale of any movable property under the Second Schedule to the Income-tax Act, if he is so authorised by the Principal Chief Commissioner or the Chief Commissioner, or the Principal Commissioner or the Commissioner, by general or special order.

(17) In this section,—

(a) “debtor”, in relation to an assessee, means,—

(i) any person from whom any money is due, or may become due, to the assessee; or

(ii) any person who holds, or may subsequently hold, any money for, or on account of, the assessee; or

(iii) any person who holds, or may subsequently hold, any money for, or on account of, the assessee jointly with any other person;

(b) shares of the joint holders in the account shall be presumed, until the contrary is proved, to be equal.

33. (1) The Tax Recovery Officer competent to take action under section 31 shall be the Tax Recovery Officer—

Tax Recovery Officer by whom recovery of tax dues is to be effected.

(a) within whose jurisdiction —

(i) the assessee carries on his business;

(ii) the principal place of business of the assessee is situate;

(iii) the assessee resides; or

(iv) any movable or immovable property of the assessee is situate; or

(b) who has been assigned jurisdiction under section 6.

(2) The Tax Recovery Officer, referred to in sub-section (1), may send a certificate, in such manner as may be prescribed, specifying the tax arrear to be recovered, to another Tax Recovery Officer within whose jurisdiction the assessee resides or has property, if the first-mentioned Tax Recovery Officer—

(a) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction; or

(b) is of the opinion that, for the purpose of expediting, or securing, the recovery of the whole, or any part, of the amount under this Chapter, it is necessary to send such certificate.

(3) The second-mentioned Tax Recovery Officer shall, on receipt of the certificate, assume jurisdiction for recovery of the amount of tax arrear specified therein and proceed to recover the amount in accordance with the provisions of this Chapter.

34. (1) The liquidator shall inform the Assessing Officer, who has jurisdiction to assess the un-disclosed foreign income and asset of the company, of his appointment within a period of thirty days of his becoming the liquidator.

Recovery of tax dues in case of a company in liquidation.

(2) The Assessing Officer shall, within a period of three months from the date on which he receives the information, intimate to the liquidator the amount which, in his opinion, would be sufficient to provide for any tax arrears or any amount which is likely to become payable thereafter, by the company under this Act.

(3) The liquidator—

(a) shall not part with any of the assets of the company, or the properties, in his custody until he has been intimated by the Assessing Officer under sub-section (2); and

(b) on being so intimated, shall set aside an amount equal to the amount intimated.

(4) Upon receipt of the intimation from the Assessing Officer under sub-section (2), the amount so intimated shall, notwithstanding anything in any other law for the time being in force, be the first charge on the assets of the company remaining after payment of the following dues, namely:—

(a) workmen's dues; and

(b) debts due to secured creditors to the extent such debts under clause (iii) of the proviso to sub-section (1) of section 325 of the Companies Act, 2013 are *pari passu* with such dues. 18 of 2013.

(5) The liquidator shall be personally liable for the payment of the amount payable by the company, if he—

(a) fails to inform in accordance with sub-section (1); or

(b) fails to set aside the amount as required by sub-section (3).

(6) The obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally in a case where there is more than one liquidator.

(7) The provisions of this section shall prevail over anything to the contrary contained in any other law for the time being in force.

(8) In this section,—

(a) "liquidator" in relation to a company which is being wound up, whether under the orders of a court or otherwise, shall include a receiver of the assets of the company;

(b) "workmen's dues" shall have the meaning assigned to it in section 325 of the Companies Act, 2013. 18 of 2013.

Liability of
manager of a
company.

35. (1) Every person being a manager at any time during the financial year shall be jointly and severally liable for the payment of any amount due under this Act in respect of the company for the financial year, if the amount cannot be recovered from the company.

(2) The provisions of sub-section (1) shall not apply, if the manager proves that non-recovery cannot be attributed to any neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(3) The provisions of this section shall prevail over anything to the contrary contained in the Companies Act, 2013. 18 of 2013.

(4) In this section, "manager" shall include a managing director and both shall have the meaning respectively assigned to them in clause (53) and clause (54) of section 2 of the Companies Act, 2013. 18 of 2013.

36. (1) Every person, being a participant in an unincorporated body at any time during the financial year, or the representative assessee of the deceased participant, shall be jointly and severally liable, along with the unincorporated body, for payment of any amount payable by the unincorporated body under this Act and all the provisions of this Act shall apply accordingly.

Joint and several liability of participants.

(2) In case of a limited liability partnership, the provisions of sub-section (1) shall not apply, if the partner proves that non-recovery cannot be attributed to any neglect, misfeasance or breach of duty on his part in relation to the affairs of the partnership.

6 of 2009.

(3) The provisions of this section shall prevail over anything to the contrary contained in the Limited Liability Partnership Act, 2008.

37. If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof, that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the manner as the municipal tax or local rate is recovered.

Recovery through State Government.

38. (1) The Tax Recovery Officer may, in a case where an assessee has property in a country or a specified territory outside India, forward a certificate to the Board for recovery of the tax arrears from the assessee, where the Central Government or any specified association in India has entered into an agreement with that country or territory under section 90 or section 90A of the Income-tax Act or under sub-sections (1), (2) or sub-section (4) of section 73 of this Act, as the case may be, for the purposes of recovery of tax.

Recovery of tax dues in pursuance of agreements with foreign countries or specified territory.

(2) On receipt of the certificate under sub-section (3) from the Tax Recovery Officer, the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country or a specified territory.

39. (1) The several modes of recovery specified in this Chapter shall not affect in any way—

Recovery by suit or under other law not affected.

(a) any other law for the time being in force relating to the recovery of debts due to the Government; or

(b) the right of the Government to institute a suit for the recovery of the tax arrears from the assessee.

(2) It shall be lawful for the Assessing Officer, or the Government, to have recourse to any such law or suit, notwithstanding that the tax arrears are being recovered from the assessee by any mode specified in this Chapter.

40. (1) Where the assessee has any income from a source outside India which has not been disclosed in the return of income furnished under sub-section (1) of section 139 of the Income-tax Act or the return of income has not been furnished under the said sub-section, interest shall be chargeable in accordance with the provisions of section 234A of the Income-tax Act.

Interest for default in furnishing return and payment or deferment of advance tax.

(2) Where the assessee has any undisclosed income from a source outside India and the advance tax on such income has not been paid in accordance with Part C of Chapter XVII of the Income-tax Act, interest shall be chargeable in accordance with the provisions of sections 234B and 234C of the Income-tax Act.

CHAPTER IV

PENALTIES

Penalty in relation to undisclosed foreign income and asset.

Penalty for failure to furnish return in relation to foreign income and asset.

41. The Assessing Officer may direct that in a case where tax has been computed under section 10 in respect of undisclosed foreign income and asset, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum equal to three times the tax computed under that section.

42. If a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, who is required to furnish a return of his income for any previous year, as required under sub-section (1) of section 139 of the Income-tax Act or by the provisos to that sub-section, and who at any time during such previous year,—

(i) held any asset (including financial interest in any entity) located outside India as a beneficial owner or otherwise; or

(ii) was a beneficiary of any asset (including financial interest in any entity) located outside India; or

(iii) had any income from a source located outside India,

and fails to furnish such return before the end of the relevant assessment year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten lakh rupees:

Provided that this section shall not apply in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to five hundred thousand rupees at any time during the previous year.

Explanation.—For determining the value equivalent in rupees of the balance in an account maintained in foreign currency, the rate of exchange for calculation of the value in rupees shall be the telegraphic transfer buying rate of such currency as on the date for which the value is to be determined as adopted by the State Bank of India constituted under the State Bank of India Act, 1955.

23 of 1955.

Penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India.

43. If any person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, who has furnished the return of income for any previous year under sub-section (1) or sub-section (4) or sub-section (5) of section 139 of the said Act, fails to furnish any information or furnishes inaccurate particulars in such return relating to any asset (including financial interest in any entity) located outside India, held by him as a beneficial owner or otherwise, or in respect of which he was a beneficiary, or relating to any income from a source located outside India, at any time during such previous year, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten lakh rupees:

Provided that this section shall not apply in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to five hundred thousand rupees at any time during the previous year.

Explanation.—The value equivalent in rupees shall be determined in the manner provided in the *Explanation* to section 42.

Penalty for default in payment of tax arrear.

44. (1) Every person who is an assessee in default, or an assessee deemed to be in default, as the case may be, in making payment of tax, and in case of continuing default by such assessee, he shall be liable to a penalty of an amount, equal to the amount of tax arrear.

(2) An assessee shall not cease to be liable to any penalty under sub-section (1) merely by reason of the fact that before the levy of such penalty he has paid the tax.

45. (1) A person shall be liable to a penalty if he has, without reasonable cause, failed to—

Penalty for other defaults.

(a) answer any question put to him by a tax authority in the exercise of its powers under this Act;

(b) sign any statement made by him in the course of any proceedings under this Act which a tax authority may legally require him to sign;

(c) attend or produce books of account or documents at the place or time, if he is required to attend or to give evidence or produce books of account or other documents, at certain place and time in response to summons issued under section 8.

(2) The penalty referred to in sub-section (1) shall be a sum which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.

46. (1) The tax authority shall, for the purposes of imposing any penalty under this Chapter, issue a notice to an assessee requiring him to show cause why the penalty should not be imposed on him.

Procedure.

(2) The notice referred to in sub-section (1) shall be issued—

(a) during the pendency of any proceedings under this Act for the relevant previous year, in respect of penalty referred to in section 41;

(b) within a period of three years from the end of the financial year in which the default is committed, in respect of penalties referred to in section 45.

(3) No order imposing a penalty under this Chapter shall be made unless the assessee has been given an opportunity of being heard.

(4) An order imposing a penalty under this Chapter shall be made with the approval of the Joint Commissioner, if—

(a) the penalty exceeds one lakh rupees and the tax authority levying the penalty is in the rank of Income-tax Officer; or

(b) the penalty exceeds five lakh rupees and the tax authority levying the penalty is in the rank of Assistant Commissioner or Deputy Commissioner.

(5) Every order of penalty issued under this Chapter shall be accompanied by a notice of demand in respect of the amount of penalty imposed and such notice of demand shall be deemed to be a notice under section 13.

47. (1) No order imposing a penalty under this Chapter shall be passed after the expiry of a period of one year from the end of the financial year in which the notice for imposition of penalty is issued under section 46.

Bar of limitation for imposing penalty.

(2) An order imposing, or dropping the proceedings for imposition of, penalty under this Chapter may be revised, or revived, as the case may be, on the basis of assessment of the undisclosed foreign income and asset as revised after giving effect to the order of the Commissioner (Appeals), the Appellate Tribunal, the High Court or the Supreme Court or order of revision under section 23 or section 24.

(3) An order revising or reviving the penalty under sub-section (2) shall not be passed after the expiry of a period of six months from the end of the month in which order of the Commissioner (Appeals), the Appellate Tribunal, the High Court or the Supreme Court is received by the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the order of revision under section 23 or section 24 is passed.

(4) In computing the period of limitation for the purposes of this section, the following time or period shall not be included—

(a) the time taken in giving an opportunity to the assessee to be reheard under section 7; and

(b) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order, or injunction, of any court.

CHAPTER V

OFFENCES AND PROSECUTIONS

Chapter not in derogation of any other law or any other provision of this Act.

48. (1) The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of any other law providing for prosecution for offences thereunder.

(2) The provisions of this Chapter shall be independent of any order under this Act that may be made, or has not been made, on any person and it shall be no defence that the order has not been made on account of time limitation or for any other reason.

Punishment for failure to furnish return in relation to foreign income and asset.

49. If a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, who at any time during the previous year, held any asset (including financial interest in any entity) located outside India as a beneficial owner or otherwise, or was a beneficiary of such asset or had income from a source outside India and wilfully fails to furnish in due time the return of income which he is required to furnish under sub-section (1) of section 139 of that Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of income under sub-section (1) of section 139 of the Income-tax Act if the return is furnished by him before the expiry of the assessment year.

Punishment for failure to furnish in return of income, any information about an asset (including financial interest in any entity) located outside India.

50. If any person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, who has furnished the return of income for any previous year under sub-section (1) or sub-section (4) or sub-section (5) of section 139 of that Act, wilfully fails to furnish in such return any information relating to an asset (including financial interest in any entity) located outside India, held by him, as a beneficial owner or otherwise or in which he was a beneficiary, at any time during such previous year, or disclose any income from a source outside India, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

Punishment for wilful attempt to evade tax.

51. (1) If a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to ten years and with fine.

(2) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine.

(3) For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(ii) makes or causes to be made any false entry or statement in such books of account or other documents; or

(iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

52. If a person, makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

Punishment
for false
statement in
verification.

53. If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to tax payable under this Act which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 51, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

Punishment
for abetment.

54. (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Presumption
as to culpable
mental state.

Explanation.—In this sub-section, “culpable mental state” includes intention, motive or knowledge of a fact or belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

55. (1) A person shall not be proceeded against for an offence under section 49 to section 53 (both inclusive) except with the sanction of the Principal Commissioner or Commissioner or the Commissioner (Appeals), as the case may be.

Prosecution
to be at
instance
of Principal
Chief
Commissioner
or Chief
Commissioner
or Principal
Commissioner
or
Commissioner.

(2) The Principal Chief Commissioner or the Chief Commissioner may issue such instructions, or directions, to the tax authorities referred to in sub-section (1) as he may think fit for the institution of proceedings under this section.

(3) The power of the Board to issue orders, instructions or directions under this Act shall include the power to issue orders, instructions or directions (including instructions or directions to obtain its previous approval) to other tax authorities for the proper initiation of proceedings of offences (including an authorisation to file and pursue complaints by one or more Inspectors of tax) under this section.

56. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by
companies.

(2) Nothing in sub-section (1) shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director,

manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act has been committed by a person, being a company, and the punishment for such offence is imprisonment and fine, then, without prejudice to sub-section (1) or sub-section (3), such company shall be punished with fine and every person, referred to in sub-section (1), or the director, manager, secretary or other officer of the company referred to in sub-section (3), shall be liable to be proceeded against and punished in accordance with the provisions of this Act.

(5) In this section—

(a) “company” means a body corporate, and includes —

(i) an unincorporated body;

(ii) a Hindu undivided family;

(b) “director”, in relation to —

(i) an unincorporated body, means a participant in the body;

(ii) a Hindu undivided family, means an adult member of the family; and

(iii) a company, means a whole-time director, or where there is no such director, any other director or manager or officer, who is in charge of the affairs of the company.

Proof of entries in records or documents.

57. (1) The entries in the records, or other documents, in the custody of a tax authority shall be admitted in evidence in any proceeding for the prosecution of any person for an offence under this Chapter.

(2) The entries referred to in sub-section (1) may be proved by the production of—

(a) the records or other documents (containing such entries) in the custody of the tax authority; or

(b) a copy of the entries certified by that authority under its signature, as true copy of the original entries contained in the records or other documents in its custody.

Punishment for second and subsequent offences.

58. If any person convicted of an offence under section 49 to section 53 (both inclusive) is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and every subsequent offence with rigorous imprisonment for a term which shall not be less than three years, but which may extend to ten years and with fine which shall not be less than five lakh rupees, but which may extend to one crore rupees.

CHAPTER VI

TAX COMPLIANCE FOR UNDISCLOSED FOREIGN INCOME AND ASSETS

Declaration of undisclosed foreign asset.

59. Subject to the provisions of this Chapter, any person may make, on or after the date of commencement of this Act but on or before a date to be notified by the Central Government in the Official Gazette, a declaration in respect of any undisclosed asset located outside India and acquired from income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year beginning on 1st day of April, 2016—

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act;

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Act;

(c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

60. Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the undisclosed asset located outside India and declared under section 59 within the time specified therein shall be chargeable to tax at the rate of thirty per cent. of value of such undisclosed asset on the date of commencement of this Act.

Charge of tax.

61. Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the person making a declaration of undisclosed asset located outside India shall, in addition to tax charged under section 60, be liable to penalty at the rate of one hundred per cent. of such tax.

Penalty.

62. (1) A declaration under section 59 shall be made to the Principal Commissioner or the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed.

Manner of declaration.

(2) The declaration shall be signed,—

(i) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(ii) where the declarant is a Hindu undivided family, by the *karta*, and where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(iii) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(iv) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(v) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(vi) where the declarant is any other person, by that person or by some other person competent to act on his behalf.

(3) Any person, who has made a declaration under sub-section (1) in respect of his asset or as a representative assessee in respect of the asset of any other person, shall not be entitled to make any other declaration, under that sub-section in respect of his asset or the asset of such other person, and any such other declaration, if made, shall be deemed to be void.

63. (1) The tax payable under section 60 and penalty payable under section 61 in respect of the undisclosed asset located outside India, shall be paid on or before a date to be notified by the Central Government in the Official Gazette.

Time for payment of tax.

(2) The declarant shall file the proof of payment of tax and penalty on or before the date notified under sub-section (1), with the Principal Commissioner or the Commissioner before whom the declaration under section 59 was made.

(3) If the declarant fails to pay the tax in respect of the declaration made under section 59 on or before the date notified under sub-section (1), the declaration filed by him shall be deemed never to have been made under this Chapter.

Undisclosed foreign asset declared not to be included in total income.

64. The amount of undisclosed investment in an asset located outside India declared in accordance with section 59 shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the declarant makes the payment of tax referred to in section 60 and the penalty referred to in section 61 by the date notified under sub-section (I) of section 63.

Undisclosed foreign asset declared not to affect finality of completed assessments.

65. The declarant shall not be entitled, in respect of undisclosed asset located outside India declared or any amount of tax paid thereon, to reopen any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957 or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

27 of 1957.

Tax in respect of voluntarily disclosed asset not refundable.

66. Any amount of tax paid under section 60 or penalty paid under section 61 in pursuance of a declaration made under section 59 shall not be refundable.

Declaration not admissible in evidence against declarant.

67. Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under section 59 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty, other than the penalty leviable under section 61, or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act, 1957 or the Foreign Exchange Management Act, 1999 or the Companies Act, 2013 or the Customs Act, 1962.

27 of 1957.
42 of 1999.
18 of 2013.
52 of 1962.

Declaration by misrepresentation of facts to be void.

68. Notwithstanding anything contained in this Chapter, where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed never to have been made under this Chapter.

Exemption from wealth-tax in respect of assets specified in declaration.

69. (I) Where the undisclosed asset located outside India is represented by cash (including bank deposits), bullion or any other assets specified in the declaration made under section 59—

(a) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act, 1957 for the assessment year commencing on or before the 1st day of April, 2015; or

27 of 1957.

(b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years; or

(c) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then, notwithstanding anything contained in the Wealth-tax Act, 1957 or any rules made thereunder,—

27 of 1957.

(I) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years;

(II) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.

Explanation.—Where a declaration under section 59 is made by a firm, the assets referred to in clause (I) or, as the case may be, the amount referred to in clause (II) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-sections (1) and (2) of section 63 are fulfilled by the declarant.

27 of 1957. 70. The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 189 of that Act or of Chapter V of the Wealth-tax Act, 1957 relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Chapter as they apply in relation to proceedings under the Income-tax Act or, as the case may be, the Wealth-tax Act.

Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.

71. The provisions of this Chapter shall not apply—

52 of 1974. (a) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974;

Chapter not to apply to certain persons.

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction;

45 of 1860.
61 of 1985.
37 of 1967.
49 of 1988. (b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988;

27 of 1992. (c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

(d) in relation to any undisclosed asset located outside India which has been acquired from income chargeable to tax under the Income-tax Act for any previous year relevant to an assessment year prior to the assessment year beginning on the 1st day of April, 2016—

(i) where a notice under section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act has been issued in respect of such assessment year and the proceeding is pending before the Assessing Officer; or

(ii) where a search has been conducted under section 132 or requisition has been made under section 132A or a survey has been carried out under section 133A of the Income-tax Act in a previous year and a notice under sub-section (2) of section 143 for the assessment year relevant to such previous year or a notice under section 153A or under section 153C of the said Act for an

assessment year relevant to any previous year prior to such previous year has not been issued and the time for issuance of such notice has not expired; or

(iii) where any information has been received by the competent authority under an agreement entered into by the Central Government under section 90 or section 90A of the Income-tax Act in respect of such undisclosed asset.

Explanation.—For the purpose of this sub-clause asset shall include a bank account whether having any balance or not.

Removal of doubts.

72. For the removal of doubts, it is hereby declared that—

(a) save as otherwise expressly provided in the *Explanation* to sub-section (1) of section 69, nothing contained in this Chapter shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Chapter;

(b) where any declaration has been made under section 59 but no tax and penalty has been paid within the time specified under section 60 and section 61, the value of such asset shall be chargeable to tax under this Act in the previous year in which such declaration is made;

(c) where any asset has been acquired or made prior to commencement of this Act, and no declaration in respect of such asset is made under this Chapter, such asset shall be deemed to have been acquired or made in the year in which a notice under section 10 is issued by the Assessing Officer and the provisions of this Act shall apply accordingly.

CHAPTER VII

GENERAL PROVISIONS

Agreement with foreign countries or specified territories.

73. (1) The Central Government may enter into an agreement with the Government of any other country—

(a) for exchange of information for the prevention of evasion or avoidance of tax on undisclosed foreign income chargeable under this Act or under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance;

(b) for recovery of tax under this Act and under the corresponding law in force in that country.

(2) The Central Government may enter into an agreement with the Government of any specified territory outside India for the purposes specified in sub-section (1).

(3) The Central Government may, by notification, make such provisions as may be necessary for implementing the agreements referred to in sub-sections (1) and (2).

(4) Any specified association in India may enter into an agreement with any specified association in the specified territory outside India for the purposes of sub-section (1) and the Central Government may by notification make such provisions as may be necessary for adopting and implementing such agreement.

(5) Any term used but not defined in this Act or in the agreement referred to in sub-sections (1), (2) or sub-section (4) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the meaning assigned to it in the notification issued by the Central Government and such meaning shall be deemed to have effect from the date on which the said agreement came into force.

74. (1) The service of any notice, summons, requisition, order or any other communication under this Act (herein referred to in this section as "communication") may be made by delivering or transmitting a copy thereof, to the person named therein,—

Service of notice generally.

(a) by post or by such courier service as may be approved by the Board;

5 of 1908.

(b) in such manner as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons;

21 of 2000.

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or

(d) by any other means of transmission of documents, including fax message or electronic mail message, as may be prescribed.

(2) The Board may make rules providing for the addresses including the address for electronic mail or electronic mail message to which the communication referred to in sub-section (1) may be delivered or transmitted to the person named therein.

21 of 2000.

(3) In this section, the expressions "electronic mail" and "electronic mail message" shall have the same meanings as assigned to them in the *Explanation* to section 66A of the Information Technology Act, 2000.

75. (1) A notice or any other document required to be issued, served or given for the purposes of this Act by any tax authority shall be authenticated by that authority.

Authentication of notices and other documents.

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any tax authority shall be deemed to be authenticated, if the name and office of a designated tax authority is printed, stamped or otherwise written thereon.

(3) In this section, a designated tax authority shall mean any tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).

76. (1) A notice which is required to be served upon a person for the purposes of assessment under this Act shall be deemed to have been duly served upon him in accordance with the provisions of this Act, if the person has appeared in any proceeding or co-operated in any inquiry relating to an assessment.

Notice deemed to be valid in certain circumstances.

(2) The person, referred to in sub-section (1), shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(a) not served upon him;

(b) not served upon him in time; or

(c) served upon him in an improper manner.

(3) The provisions of this section shall not apply, if the person has raised the objection before the completion of the assessment.

77. (1) Any assessee who is entitled or required to attend before any tax authority or the Appellate Tribunal, in connection with any matter relating to the valuation of any asset, may attend through a valuer approved by the Principal Commissioner or the Commissioner in accordance with such rules as may be prescribed.

Appearance by approved valuer in certain matters.

(2) The provisions of sub-section (1) shall not apply in a case where the assessee is required to attend personally for examination on oath or affirmation under section 8.

Appearance
by authorised
representative.

78. (1) Any assessee who is entitled or required to attend before any tax authority or the Appellate Tribunal, in connection with any proceeding under this Act, may attend through an authorised representative.

(2) The provisions of sub-section (1) shall not apply in a case where the assessee is required to attend personally for examination on oath or affirmation under section 8.

(3) In this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being—

(a) a person related to the assessee in any manner, or a person regularly employed by the assessee;

(b) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings;

(c) any legal practitioner who is entitled to practice in any civil court in India;

(d) an accountant;

(e) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(f) any person who has acquired such educational qualifications as may be prescribed.

(4) The following persons shall not be qualified to represent an assessee under sub-section (1), namely:—

(a) a person who has been dismissed or removed from Government service,

(b) a legal practitioner, or an accountant, who is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him;

(c) a person, not being a legal practitioner or an accountant, who is found guilty of misconduct in any tax proceedings by such authority as may be prescribed.

(5) The Principal Chief Commissioner or the Chief Commissioner may, by an order in writing, specify the period upto which the disqualification under sub-section (4) shall continue, having regard to the nature of misconduct and such disqualification shall not exceed—

(i) in case of clauses (a) and (c) of sub-section (4), a period of ten years;

(ii) in case of clause (b) of sub-section (4), the period for which the legal practitioner or an accountant is not entitled to practice.

(6) A person shall not be allowed to appear as an authorised representative, if he has committed any fraud or misrepresented the facts which resulted in loss to the revenue and that person has been declared as such by an order of the Principal Chief Commissioner or the Chief Commissioner.

Explanation.—In this section, "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act. 38 of 1949.

Rounding off
of income,
value of asset
and tax.

79. (1) The amount of undisclosed foreign income and asset computed in accordance with this Act shall be rounded off to the nearest multiple of one hundred rupees.

(2) Any amount payable or receivable by the assessee under this Act shall be rounded off to the nearest multiple of ten rupees.

(3) The method of rounding off under sub-section (1) or sub-section (2), shall be such as may be prescribed.

80. No court inferior to that of a metropolitan magistrate or a magistrate of the First Class shall try any offence under this Act.

Cognizance of offences.

81. No assessment, notice, summons or other proceedings, made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such assessment, notice, summons or other proceeding if such assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.

Assessment not to be invalid on certain grounds.

82. (1) No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act.

Bar of suits in civil courts.

(2) No prosecution, suit or other proceeding shall lie against the Government or any officer of the Government, for anything in good faith done or intended to be done, under this Act.

83. Notwithstanding anything contained in the Income-tax Act, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of the said Act may be used for the purposes of this Act.

Income-tax papers to be available for purposes of this Act.

84. The provisions of clauses (c) and (d) of sub-section (1) of section 90, clauses (c) and (d) of sub-section (1) of section 90A, sections 119, 133, 134, 135, 138, Chapter XV and sections 237, 240, 245, 280, 280A, 280B, 280D, 281, 281B and 284 of the Income-tax Act shall apply with necessary modifications as if the said provisions refer to undisclosed foreign income and asset instead of to income-tax.

Application of provisions of Income-tax Act.

85. (1) The Board may, subject to the approval of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of determination of the value of an undisclosed foreign asset referred to in sub-section (2) of section 3;

(b) the tax authority to be prescribed for any of the purposes of this Act;

(c) the form and manner of service of a notice of demand under section 13;

(d) the form in which any appeal, revision or cross-objection may be filed under this Act, the manner in which they may be verified and the fee payable in respect thereof;

(e) the form in which the Tax Recovery Officer may draw up the statement of tax arrears under sub-section (1) of section 31;

(f) the manner in which the sum is to be paid to the credit of Central Government under sub-section (2) or sub-section (5) of section 32;

(g) the manner in which the Tax Recovery Officer shall send a certificate referred to in sub-section (2) of section 33;

(h) the form in which a declaration referred to in sub-section (1) of section 62 is to be made and the manner in which it is to be verified;

(i) the means of transmission of documents under clause (d) of sub-section (1) of section 74;

(j) the procedure for approval of a valuer by the Principal Commissioner or the Commissioner under section 77;

(k) the educational qualifications required, to be an authorised representative under clause (f) of sub-section (3) of section 78;

(l) the tax authority under clause (c) of sub-section (4) of section 78;

(m) the method of rounding off of the amount referred to in sub-section (1) or sub-section (2) of section 79;

(n) any other matter which by this Act is to be, or may be, prescribed.

(3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act and no retrospective effect shall be given to any rule so as to prejudicially affect the interest of assesseees.

(4) The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties,

86. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Act come into force.

(2) Every order made under this section shall be laid before each House of Parliament.

Amendment
of section 2
of Act 54 of
1963.

87. In section 2 of the Central Boards of Revenue Act, 1963, in sub-clause (1) of clause (c),—

(a) in item (vii), the word “and” occurring at the end shall be omitted; and

(b) after item (ix) as so amended, the following item shall be inserted, namely:—

“(x) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015; and”

Amendment
of Act of 15
of 2003.

88. In the Prevention of Money-laundering Act, 2002, in the Schedule, in Part C, after entry (3), relating to the offences against property under Chapter XVII of the Indian Penal Code, the following entry shall be inserted, namely:—

“(4) The offence of wilful attempt to evade any tax, penalty or interest referred to in section 51 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.”

45 of 1860.

Sd/-
Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
C. J. Gothi,
Secretary to Government.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 15th October, 2015.

No. RPB/469-2015/Ord.-07-2015/-E :-The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 22nd September, 2015 is republished for general information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 22nd September, 2015, Bhadra 31, 1937 (Saka)

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) SECOND ORDINANCE, 2015

No. 7 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

An Ordinance further to amend the Negotiable Instruments Act, 1881.

WHEREAS the Negotiable Instruments (Amendment) Ordinance, 2015 was promulgated by the President on the 15th day of June, 2015;

AND WHEREAS the Negotiable Instruments (Amendment) Bill, 2015 to replace the Negotiable Instruments (Amendment) Ordinance, 2015 has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and
commencement.

1. (1) This Ordinance may be called the Negotiable Instruments (Amendment) Second Ordinance, 2015.

(2) It shall be deemed to have come into force on the 15th day of June, 2015.

Amendment of
section 6.

2. In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), in section 6,—

26 of 1881.

(i) in *Explanation I*, for clause (a), the following clause shall be substituted, namely:—

‘(a) “a cheque in the electronic form” means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;’;

(ii) after *Explanation II*, the following *Explanation* shall be inserted, namely:—

‘*Explanation III*.— For the purposes of this section, the expressions “asymmetric crypto system”, “computer resource”, “digital signature”, “electronic form” and “electronic signature” shall have the same meanings respectively assigned to them in the Information Technology Act, 2000.’

21 of 2000.

Amendment of
section 142.

3. In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.”.

4. In the principal Act, after section 142, the following section shall be inserted, namely:—

Insertion of new section.

Validation for transfer of pending cases.

“142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Ordinance, as if that sub-section had been in force at all material times.

2 of 1974.

6 of 2015.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent

complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of this Ordinance, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before which the first case was filed and is pending, as if that sub-section had been in force at all material times.”

Ord.6 of 2015.

Sd/-
Pranab Mukherjee,
President.

Sd/-
Dr. Sanjay Singh,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
C. J. Gothi,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative and Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 5th December, 2015.

No. RPB/502-2015-Ord.-08-2015-E:-The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 23rd October, 2015 is republished for general Information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd October, 2015, Kartika 1, 1937 (Saka)

THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL APPELLATE DIVISION OF HIGH COURTS ORDINANCE, 2015

No. 8 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

An Ordinance to provide for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and for matters connected therewith or incidental thereto.

WHEREAS a Bill to provide for the Constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value was introduced in the Council of States and referred to the Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report which is pending;

AND WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

Short title,
extension
and
commence-
ment.

1. (1) This Ordinance may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Definitions.

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) “Commercial Appellate Division” means the Commercial Appellate Division in a High Court constituted under sub-section (1) of section 5;

(b) “Commercial Court” means the Commercial Court constituted under sub-section (1) of section 3;

(c) “commercial dispute” means a dispute arising out of—

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

(ii) export or import of merchandise or services;

(iii) issues relating to admiralty and maritime law;

(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(v) carriage of goods;

(vi) construction and infrastructure contracts, including tenders;

(vii) agreements relating to immovable property used exclusively in trade or commerce;

(viii) franchising agreements;

(ix) distribution and licensing agreements;

(x) management and consultancy agreements;

- (xi) joint venture agreements;
- (xii) shareholders agreements;
- (xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
- (xiv) mercantile agency and mercantile usage;
- (xv) partnership agreements;
- (xvi) technology development agreements;
- (xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
- (xviii) agreements for sale of goods or provision of services;
- (xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;
- (xx) insurance and re-insurance;
- (xxi) contracts of agency relating to any of the above; and
- (xxii) such other commercial disputes as may be notified by the Central Government.

Explanation.—A commercial dispute shall not cease to be a commercial dispute merely because—

- (a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;
- (b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;
- (d) “Commercial Division” means the Commercial Division in a High Court constituted under sub-section (1) of section 4;

(e) "District Judge" shall have the same meaning as assigned to it in clause (a) of article 236 of the Constitution of India;

(f) "document" means any matter expressed or described upon any substance by means of letters, figures or marks, or electronic means, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter;

(g) "notification" means a notification published in the Official Gazette and the expression "notify" with its cognate meanings and grammatical variations shall be construed accordingly;

(h) "Schedule" means the Schedule appended to the Ordinance; and

(i) "Specified Value", in relation to a commercial dispute, shall mean the value of the subject matter in respect of a suit as determined in accordance with section 12 which shall not be less than one crore rupees or such higher value, as may be notified by the Central Government."

(2) The words and expressions used and not defined in this Ordinance but defined in the Code of Civil Procedure, 1908 and the Evidence Act, 1872, shall have the same meanings respectively assigned to them in that Code and the Act.

5 of 1908.
1 of 1872.

CHAPTER II

CONSTITUTION OF COMMERCIAL COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS

Constitution
of
Commercial
Courts.

3. (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Ordinance:

Provided that no Commercial Court shall be constituted for the territory over which the High Court has ordinary original civil jurisdiction.

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The State Government shall, with the concurrence of the

Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court, from amongst the cadre of Higher Judicial Service in the State.

4. (1) In all High Courts, having ordinary civil jurisdiction, the Chief Justice of the High Court may, by order, constitute Commercial Division having one or more Benches consisting of a single Judge for the purpose of exercising the jurisdiction and powers conferred on it under this Ordinance.

Constitution of Commercial Division of High Court.

(2) The Chief Justice of the High Court shall nominate such judges of the High Court who have experience in dealing with commercial disputes to be judges of the Commercial Division.

5. (1) After issuing notification under sub-section (1) of section 3 or order under sub-section (1) of section 4, the Chief Justice of the concerned High Court shall, by order, constitute Commercial Appellate Division having one or more Division Benches for the purpose of exercising the jurisdiction and powers conferred on it by the Ordinance.

Constitution of Commercial Appellate Division.

(2) The Chief Justice of the High Court shall nominate such judges of the High Court who have experience in dealing with commercial disputes to be judges of the Commercial Appellate Division.

6. The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

Jurisdiction of Commercial Court.

Explanation.—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908.

5 of 1908.

7. All suits and applications relating to commercial disputes of a Specified Value filed in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court:

Jurisdiction of Commercial Divisions of High Courts.

Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court:

Provided further that all suits and applications transferred to the High Court by virtue of sub-section (4) of section 22 of the Designs Act, 2000 or section 104 of the Patents Act, 1970 shall be heard and disposed of by the Commercial Division of the High Court in all the areas over which the High Court exercises ordinary original civil jurisdiction.

16 of 2000,
39 of 1970.

Bar against
revision
application
or petition
against an
interlocutory
order.

8. Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.

Transfer of
suit if
counter-
claim in a
commercial
dispute is of
Specified
Value.

9. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, in the event that a counter-claim filed in a suit before a civil court relating to a commercial dispute is of Specified Value, such suit shall be transferred by the civil court to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit.

5 of 1908.

(2) In the event that such suit is not transferred in the manner contemplated in sub-section (1), the Commercial Appellate Division of the High Court exercising supervisory jurisdiction over the civil court in question may, on the application of any of the parties to the suit, withdraw such suit pending before the civil court and transfer the same for trial or disposal to the Commercial Court or Commercial Division or, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

Jurisdiction
in respect of
arbitration
matters.

10. Where the subject matter of an arbitration is a commercial dispute of a Specified Value and—

(1) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed in a High Court, shall be heard and disposed of by the Commercial Appellate Division where such Commercial Appellate Division has been constituted in such High Court.

26 of 1996.

(2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Appellate Division where such Commercial Appellate Division has been constituted in such High Court.

26 of 1996.

26 of 1996.

(3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.

11. Notwithstanding anything contained in this Ordinance, a Commercial Court or a Commercial Division shall not entertain or decide any suit, application or proceedings relating to any commercial dispute in respect of which the jurisdiction of the civil court is either expressly or impliedly barred under any other law for the time being in force.

Bar of jurisdiction of Commercial Courts and Commercial Divisions.

CHAPTER III SPECIFIED VALUE

12. (1) The Specified Value of the subject matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

Determination of Specified Value.

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value;

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value; and

(e) where the counter-claim is raised in any suit, appeal or application, the value of the subject matter of the commercial

dispute in such counter-claim as on the date of the counter-claim shall be taken into account.

(2) The aggregate value of the claim and counter-claim, if any, as set out in the statement of claim and the counter-claim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908, as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Ordinance. 5 of 1908.

CHAPTER IV APPEALS

Appeals
from
decrees of
Commercial
Courts and
Commercial
Divisions.

13. (1) Any person aggrieved by the decision of the Commercial Court or Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of judgment or order, as the case may be:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Ordinance and section 37 of the Arbitration and Conciliation Act, 1996. 5 of 1908.
26 of 1996.

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Ordinance.

Expedition
disposal of
appeals.

14. The Commercial Appellate Division shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.

CHAPTER V TRANSFER OF PENDING SUITS

Transfer of
pending
cases.

15. (1) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division. 26 of 1996.

(2) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court: 26 of 1996.

Provided that no suit or application where the final judgment has been reserved by the Court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (1) or sub-section (2).

(3) Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (1) or sub-section (2), the provisions of this Ordinance shall apply to those procedures that were not complete at the time of transfer. 26 of 1996.

(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance with Order XIV-A of the Code of Civil Procedure, 1908: 5 of 1908.

Provided that the proviso to sub-rule (1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement must be filed. 5 of 1908.

(5) In the event that such suit or application is not transferred in the manner specified in sub-section (1), sub-section (2) or sub-section (3), the Commercial Appellate Division of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

CHAPTER VI

AMENDMENTS TO THE PROVISIONS OF THE CODE OF CIVIL PROCEDURE, 1908

Amendments to
Code of Civil
Procedure,
1908 in its
application to
commercial

16. (1) The provisions of the Code of Civil Procedure, 1908 shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule. 5 of 1908.

disputes.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908, as amended by this Ordinance, in the trial of a suit in respect of a commercial dispute of a Specified Value. 5 of 1908.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908, as amended by this Ordinance, the provisions of the Code of Civil Procedure as amended by this Ordinance shall prevail. 5 of 1908.

CHAPTER VII MISCELLANEOUS

Collection and disclosure of data by Commercial Courts, Commercial Divisions and Commercial Appellate Divisions.

17. The statistical data regarding the number of suits, applications, appeals or writ petitions filed before the Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, the pendency of such cases, the status of each case, and the number of cases disposed of, shall be maintained and updated every month by each Commercial Court, Commercial Division, Commercial Appellate Division and shall be published on the website of the relevant High Court.

Power of High Court to issue directions.

18. The High Court may, by notification, issue practice directions to supplement the provisions of Chapter II or the Code of Civil Procedure, 1908 in so far as such provisions apply to the hearing of commercial disputes of a Specified Value. 5 of 1908.

Infrastructure facilities.

19. The State Government shall provide necessary infrastructure to facilitate the working of a Commercial Court or a Commercial Division of a High Court.

Training and continuous education.

20. The State Government may, in consultation with the High Court, establish necessary facilities providing for training of Judges who may be appointed to the Commercial Court, Commercial Division or the Commercial Appellate Division in a High Court.

Act to have overriding effect.

21. Save as otherwise provided, the provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law for the time being in force other than this Ordinance.

Power to remove difficulties.

22. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance as may appear to

it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

SCHEDULE
(See section 17)

Amendment of section 26. 1. In section 26 of the Code of Civil Procedure, 1908. (hereafter referred to as the Code), in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that such an affidavit shall be in the form and manner as prescribed under Order VI Rule 15A.”.

Substitution of new section for section 35. 2. For section 35 of the Code, the following section shall be substituted, namely:—

“35.(1) In relation to any commercial dispute, the Court, notwithstanding anything contained in any other law for the time being in force or Rule, has the discretion to determine:

- (a) whether costs are payable by one party to another;
- (b) the quantum of those costs; and
- (c) when they are to be paid.

Explanation.— For the purpose of clause (a), the expression “costs” shall mean reasonable costs relating to—

- (i) the fees and expenses of the witnesses incurred;
- (ii) legal fees and expenses incurred;
- (iii) any other expenses incurred in connection with the proceedings.

(2) If the Court decides to make an order for payment of costs, the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party:

Provided that the Court may make an order deviating from the general rule for reasons to be recorded in writing.

Illustration: The Plaintiff, in his suit, seeks a money decree for breach of contract, and damages. The Court holds that the Plaintiff is entitled to the money decree. However, it returns a finding that the claim for damages is frivolous and vexatious.

In such circumstances the Court may impose costs on the Plaintiff, despite the Plaintiff being the successful party, for having raised frivolous claims for damages.

(3) In making an order for the payment of costs, the Court shall have regard to the following circumstances, including —

- (a) the conduct of the parties;
- (b) whether a party has succeeded on part of its case, even if that party has not been wholly successful;
- (c) whether the party had made a frivolous counter-claim leading to delay in the disposal of the case;
- (d) whether any reasonable offer to settle is made by a party and unreasonably refused by the other party; and
- (e) whether the party had made a frivolous claim and instituted a vexatious proceeding wasting the time of the Court.

(4) The orders which the Court may make under this provision include an order that a party must pay—

- (a) a proportion of another party's costs;
- (b) a stated amount in respect of another party's costs;
- (c) costs from or until a certain date ;
- (d) costs incurred before proceedings have begun;
- (e) costs relating to particular steps taken in the proceedings;
- (f) costs relating to a distinct part of the proceedings; and
- (g) interest on costs from or until a certain date.

3. In section 35A of the Code, sub-section (2) shall be omitted.

Amendment
of section
35A.

4. In the First Schedule to the Code,—

Amendment
of First
Schedule.

(A) in the Order V, in Rule 1, in sub-rule (1), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons. On expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the

written statement and the Court shall not allow the written statement to be taken on record.”;

(B) in Order VI,—

(i) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Forms of pleading in Commercial Courts — In a Commercial Dispute, where forms of pleadings have been prescribed under the High Court Rules or Practice Directions made for the purposes of such commercial disputes, pleadings shall be in such forms.”;

(ii) after Rule 15, the following Rule shall be inserted, namely:—

“15A. Verification of pleadings in a Commercial Dispute.-

(1) Notwithstanding anything contained in Rule 15, every pleading in a Commercial Dispute shall be verified by an affidavit in the manner and form prescribed in the Appendix to this Schedule.

(2) An affidavit under sub-rule (1) above shall be signed by the party or by one of the parties to the proceedings, or by any other person on behalf of such party or parties who is proved to the satisfaction of the Court to be acquainted with the facts of the case and who is duly authorised by such party or parties.

(3) Where a pleading is amended, the amendments must be verified in the form and manner referred to in sub-rule (1) unless the Court orders otherwise.

(4) Where a pleading is not verified in the manner provided under sub-rule (1), the party shall not be permitted to rely on such pleading as evidence or any of the matters set out therein.

(5) The Court may strike out a pleading which is not verified by a Statement of Truth, namely, the affidavit set out in the Appendix to this Schedule.”;

(C) in Order VII, after Rule 2, the following Rule shall be inserted, namely: —

“2A. Where interest is sought in the suit.-

(1) Where the plaintiff seeks interest, the plaint shall contain a statement to that effect along with the details set out under sub-rules (2) and (3).

5 of 1908.

(2) Where the plaintiff seeks interest, the plaintiff shall state whether the plaintiff is seeking interest in relation to a commercial transaction within the meaning of section 34 of the Code of Civil Procedure, 1908 and, furthermore, if the plaintiff is doing so under the terms of a contract or under an Act, in which case the Act is to be specified in the plaint; or on some other basis and shall state the basis of that.

(3) Pleadings shall also state-

- (a) the rate at which interest is claimed;
- (b) the date from which it is claimed;
- (c) the date to which it is calculated;
- (d) the total amount of interest claimed to the date of calculation; and
- (e) the daily rate at which interest accrues after that date.”;

(D) in Order VIII,—

(i) in Rule 1, for the proviso, the following proviso shall be substituted, namely:—

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons. On expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”;

(ii) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Denial by the defendant in suits before the Commercial Division of the High Court or the Commercial Court.

(1) Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this Rule.

(2) The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits.

(3) Where the defendant denies an allegation of fact in a plaint, he

must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.

(4) If the defendant disputes the jurisdiction of the Court he must state the reasons for doing so, and if he is able, give his own statement as to which Court ought to have jurisdiction.

(5) If the defendant disputes the plaintiff's valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit." ;

(iii) in Rule 5, in sub-rule (1), after the first proviso, the following proviso shall be inserted, namely: —

"Provided further, that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability." ;

(iv) in Rule 10, after the first proviso, the following proviso shall be inserted, namely: —

"Provided further that no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement." ;

(E) for Order XI of the Code, the following Order shall be substituted, namely:—

"ORDER XI

DISCLOSURE, DISCOVERY AND INSPECTION OF DOCUMENTS IN SUITS BEFORE THE COMMERCIAL DIVISION OF A HIGH COURT OR A COMMERCIAL COURT

Disclosure
and
discovery of
documents.

1.(1) Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including:

(a) Documents referred to and relied on by the plaintiff in the plaint;

(b) Documents relating to any matter in question in the proceedings, in the power, possession, control or custody of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff's case;

(c) nothing in this Rule shall apply to documents produced by plaintiffs and relevant only—

(i) for the cross-examination of the defendant's witnesses, or

(ii) in answer to any case setup by the defendant subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(2) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies. The list shall also set out in brief, details of parties to each document, mode of execution, issuance or receipt and line of custody of each document.

(3) The plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody.

Explanation.—A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix.

(4) In case of urgent filings, plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by Court, the plaintiff shall file such additional documents in Court, within thirty days of filing the suit, along with a declaration on oath that the plaintiff has produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.

(5) Plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court. Such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.

(6) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon and seek leave for production thereof by the said defendant.

(7) Defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the written statement or with its counter-claim if any, including-

(a) documents referred to and relied on by the defendant in the written statement;

(b) documents relating to any matter in question in the proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant's defense;

(c) nothing in this Rule shall apply to documents produced by defendants and relevant only—

(i) for the cross-examination of the plaintiff's witnesses,

(ii) in answer to any case setup by the plaintiff subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(8) The list of documents filed with the written statement or counter-claim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies. The list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document;

(9) The written statement or counter-claim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule 7 (c)(iii) above, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counter-claim, have been disclosed and copies thereof annexed with the written statement or counter-claim and that the defendant does not have in its power, possession, control or custody, any other documents;

(10) Save and except for sub-rule 7 (c)(iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counter claim, save and except by leave of Court. Such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement or counter-claim;

(11) The written statement or counter-claim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same;

(12) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.

2. (1) In any suit the plaintiff or defendant by leave of the court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Discovery by
Interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided further that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

(2) On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the court, and that court shall decide within seven days from the day of filing of the said application, in deciding upon such application, the court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the court shall consider necessary either for disposing fairly of the suit or for saving costs.

(3) In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

(4) Interrogatories shall be in the form provided in Form No. 2 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.

5 of 1908.

(5) Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such

corporation or body, and an order may be made accordingly.

(6) Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage, or on the ground of privilege or any other ground may be taken in the affidavit in answer.

(7) Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous and any application for this purpose may be made within seven days after service of the interrogatories.

(8) Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the court may allow.

(9) An affidavit in answer to interrogatories shall be in the form provided in Form No. 3 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require. 5 of 1908.

(10) No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the court.

(11) Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the court for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer, or to answer further, either affidavit or by *viva voce* examination, as the court may direct.

Inspection.

3. (1) All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement or written statement to the counter-claim, whichever is later. The Court may extend this time limit upon application at its discretion, but not beyond thirty days in any event.

(2) Any party to the proceedings may seek directions from the Court, at any stage of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.

(3) Order in such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by Court) and hearing.

(4) If the above application is allowed, inspection and copies

thereof shall be furnished to the party seeking it, within five days of such order.

(5) No party will be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of Court.

(6) Court may impose exemplary costs against a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to a suit or essential for a decision therein and which are in their power, possession, control or custody or where a Court holds that inspection or copies of any documents had been wrongfully or unreasonably withheld or refused.

4.(1) Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the Court.

Admission
and denial of
documents.

(2) The statement of admissions and denials shall set out explicitly, whether such party was admitting or denying:

- (a) Correctness of contents of a document;
- (b) Existence of a document;
- (c) Execution of a document;
- (d) Issuance or receipt of a document;
- (e) Custody of a document.

Explanation.—A statement of admission or denial of the existence of a document made in accordance with sub-rule 3(2)(b) of the modified order XI will include the admission or denial of the contents of a document.

(3) Each party shall set out reasons for denying a document under any of the above grounds. Bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with at the discretion of the Court.

(4) Any party may however submit bare denials for third party documents of which the party denying does not have any personal knowledge of, and to which the party denying is not a party to in any manner whatsoever.

(5) An Affidavit in support of the statement of admissions and denials shall be filed confirming the correctness of the contents of

the statement.

(6) In the event that the Court holds that any party has unduly refused to admit a document under any of the above criteria, — costs (including exemplary costs) for deciding on admissibility of a document may be imposed by the Court on such party.

(7) Court may pass orders with respect to admitted documents including for waiver of further proof thereon or rejection of any documents.

Production of documents.

5.(1) Any party to a proceeding may seek or the Court may order, at any time during the pendency of any suit, production by any party or person, of such documents in the possession or power of such party or person, relating to any matter in question in such suit.

(2) Notice to produce such document shall be issued in the Form provided in Form No. 7 in Appendix C to the Code of Civil Procedure, 1908.

5 of 1908.

(3) Any party or person to whom such notice to produce is issued shall be given not less than seven days and not more than fifteen days to produce such document or to answer to their inability to produce such document.

(4) The Court may draw an adverse inference against a party refusing to produce such document after issuance of a notice to produce and where sufficient reasons for such non-production are not given and order costs.

Electronic Records.

6. (1) In case of disclosures and inspection of Electronic Records (as defined in the Information Technology Act, 2000), furnishing of printouts shall be sufficient compliance of the above provisions.

21 of 2000.

(2) At the discretion of the parties or where required (when parties wish to rely on audio or video content), copies of electronic records may be furnished in electronic form either in addition to or in lieu of printouts.

(3) Where Electronic Records form part of documents disclosed, the declaration on oath to be filed by a party shall specify—

(a) parties to such Electronic Record;

(b) manner in which such electronic record was produced and by whom;

(c) dates and time of preparation or storage or issuance or receipt of each such electronic record;

(d) source of such electronic record and date and time when the electronic record was printed;

(e) in case of email ids, details of ownership, custody and access to such email ids;

(f) in case of documents stored on a computer or computer resource (including on external servers or cloud), details of ownership, custody and access to such data on the computer or computer resource;

(g) deponent's knowledge of contents and correctness of contents;

(h) whether the computer or computer resource used for preparing or receiving or storing such document or data was functioning properly or in case of malfunction that such malfunction did not affect the contents of the document stored;

(i) that the printout or copy furnished was taken from the original computer or computer resource.

(4) The parties relying on printouts or copy in electronic form, of any electronic records, will not be required to give inspection of electronic records, provided a declaration is made by such party that each such copy, which has been produced, has been made from the original Electronic Record.

(5) The Court may give directions for admissibility of Electronic Records at any stage of the proceedings.

(6) Any party may seek directions from the Court and the Court may of its motion issue directions for submission of further proof of any electronic record including metadata or logs before admission of such electronic record.

5 of 1908.

7. For avoidance of doubt, it is hereby clarified that Order XIII Rule 1, Order VII Rule 14 and Order VIII Rule 1A the Code of Civil Procedure, 1908 shall not apply to suits or applications before the Commercial Divisions of High Court or Commercial Courts.”.

Certain provisions of the Code of Civil Procedure, 1908 not to apply.

5. After Order XIII of the Code, the following Order shall be inserted, namely:—

Insertion of new Order XIII-A.

"ORDER XIII-A

Scope of
and classes
of suits to
which this
Order
applies.

1. (1) This Order sets out the procedure by which Courts may decide a claim pertaining to any Commercial Dispute without recording oral evidence.

(2) For the purposes of this Order, the word "claim" shall include-

(a) part of a claim;

(b) any particular question on which the claim (whether in whole or in part) depends; or

(c) a counter-claim, as the case may be.

(3) Notwithstanding anything to the contrary, an application for summary judgment under this Order shall not be made in a suit in respect of any Commercial Dispute that is originally filed as a summary suit under Order XXXVII.

Stage for
application
for summary
judgment.

2. An applicant may apply for summary judgment at any time after summons has been served on the defendant:

Provided that, no application for summary judgment may be made by such applicant after the Court has framed the issues in respect of the suit.

3. Grounds for summary judgment.- The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that—

(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and

(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.

Procedure.

4. (1) An application for summary judgment to a Court shall, in addition to any other matters the applicant may deem relevant, include the matters set forth in sub-rules (a) to (f) mentioned hereunder:

(a) the application must contain a statement that it is an application for summary judgment made under this Order;

(b) the application must precisely disclose all material facts and identify the point of law, if any;

(c) in the event the applicant seeks to rely upon any documentary

evidence, the applicant must,—

(i) include such documentary evidence in its application, and

(ii) identify the relevant content of such documentary evidence on which the applicant relies;

(d) the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be;

(e) the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief.

(2) Where a hearing for summary judgment is fixed, the respondent must be given at least thirty days' notice of:

(a) the date fixed for the hearing; and

(b) the claim that is proposed to be decided by the Court at such hearing.

(3) The respondent may, within thirty days of the receipt of notice of application of summary judgment or notice of hearing (whichever is earlier), file a reply addressing the matters set forth in sub-rules (a) to (f) mentioned hereunder in addition to any other matters that the respondent may deem relevant:

(a) The reply must precisely—

(i) disclose all material facts;

(ii) identify the point of law, if any; and

(iii) state the reasons why the relief sought by the applicant should not be granted;

(b) in the event the respondent seeks to rely upon any documentary evidence in its reply, the respondent must—

(i) include such documentary evidence in its reply; and

(ii) identify the relevant content of such documentary evidence on which the respondent relies;

(c) the reply must state the reason why there are real prospects of succeeding on the claim or defending the claim, as the case may be;

(d) the reply must concisely state the issues that should be framed for trial;

(e) the reply must identify what further evidence will be brought on record at trial that could not be brought on record at the stage of summary judgment; and

(f) the reply must state why, in light of the evidence or material on record if any, the Court should not proceed to summary judgment.

Evidence for
hearing of
summary
judgment.

5. (1) Notwithstanding anything in this Order, if the respondent in an application for summary judgment wishes to rely on additional documentary evidence during the hearing, the respondent must:

(a) file such documentary evidence; and

(b) serve copies of such documentary evidence on every other party to the application at least fifteen days prior to the date of the hearing.

(2) Notwithstanding anything in this Order, if the applicant for summary judgment wishes to rely on documentary evidence in reply to the defendant's documentary evidence, the applicant must:

(a) file such documentary evidence in reply; and

(b) serve a copy of such documentary evidence on the respondent at least five days prior to the date of the hearing.

(3) Notwithstanding anything to the contrary, sub-rules (1) and (2) above shall not require documentary evidence to be:

(a) filed if such documentary evidence has already been filed; or

(b) served on a party on whom it has already been served.

Orders that
may be made
by the Court.

6. (1) On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:

(a) judgment on the claim;

(b) conditional order in accordance with Rule 7 mentioned hereunder;

(c) dismissing the application;

(d) dismissing part of the claim and a judgment on part of the claim that is not dismissed;

(e) striking out the pleadings (whether in whole or in part); or

(f) further directions to proceed for case management under Order XVA.

(2) Where the Court makes any of the orders as set forth in sub-rule (1)(a) to (f) above, the Court shall record its reasons for making such order.

7. (1) Where it appears to the Court that it is possible that a claim or defence may succeed but it is improbable that it will do so, the Court may make a conditional order as set forth in Rule 6(b) above. Conditional order.

(2) Where the Court makes a conditional order, it may:

(a) make it subject to all or any of the following conditions:

(i) require a party to deposit a sum of money in the Court;

(ii) require a party to take a specified step in relation to the claim or defence, as the case may be;

(iii) require a party, as the case may be, to give such security or provide such surety for restitution of costs as the Court deems fit and proper;

(iv) impose such other conditions, including providing security for restitution of losses that any party is likely to suffer during the pendency of the suit, as the Court may deem fit in its discretion; and

(b) specify the consequences of the failure to comply with the conditional order, including passing a judgment against the party that have not complied with the conditional order.

8. The Court may make an order for payment of costs in an application for summary judgment in accordance with the provisions of sections 35 and 35A of the Code." Power to impose costs.

6. Order XV of the Code shall be omitted. Omission of Order XV.

7. After Order XV of the Code, the following Order shall be inserted, namely:— Insertion of Order XV-A

"ORDER XV-A

1. The Court shall hold the first Case Management Hearing, not later than four weeks from the date of filing of affidavit of admission or denial of documents by all parties to the suit. First Case Management Hearing.

- | | |
|---|---|
| Orders to be passed in a Case Management Hearing. | <p>2. In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the Court may pass an order—</p> <p>(a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 after examining pleadings, documents and documents produced before it, and on examination conducted by the Court under Rule 2 of Order X, if required; 5 of 1908.</p> <p>(b) listing witnesses to be examined by the parties;</p> <p>(c) fixing the date by which affidavit of evidence to be filed by parties;</p> <p>(d) fixing the dates on which evidence of the witnesses of the parties to be recorded;</p> <p>(e) fixing the date by which written arguments are to be filed before the Court by the parties;</p> <p>(f) fixing the date on which oral arguments are to be heard by the Court; and</p> <p>(g) setting time limits for parties and/or their advocates to address oral arguments.</p> |
| Time limit for the completion of a trial. | <p>3. In fixing dates or setting time limits for the purposes of Rule 2 of this Order, the Court shall ensure that the arguments are closed not later than six months from the date of the first case management hearing.</p> |
| Recording of oral evidence on a day-to-day basis. | <p>4. The Court shall, as far as possible, ensure that the recording of evidence shall be carried on, on a day-to-day basis until the cross-examination of all the witnesses is complete.</p> |
| Case Management Hearings during a trial. | <p>5. The Court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under Rule 2 and facilitate speedy disposal of the suit.</p> |
| Powers of the Court in a Case Management Hearing. | <p>6.(1) In any Case Management Hearing held under this Order, the Court shall have the power to –</p> <p>(a) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII A;</p> <p>(b) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;</p> <p>(c) extend or shorten the time for compliance with any</p> |

practice, direction or Court order if it finds sufficient reason to do so;

(d) adjourn or bring forward a hearing if it finds sufficient reason to do so;

(e) direct a party to attend the Court for the purposes of examination under Rule 2 of Order X;

(f) consolidate proceedings;

(g) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;

(h) direct a separate trial of any issue;

(i) decide the order in which issues are to be tried;

(j) exclude an issue from consideration;

(k) dismiss or give judgment on a claim after a decision on a preliminary issue;

(l) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;

(m) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;

(n) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;

(o) delegate the recording of evidence to such authority appointed by the Court for this purpose;

(p) pass any order relating to the monitoring of recording the evidence by a commission or any other authority;

(q) order any party to file and exchange a costs budget;

(r) issue directions or pass any order for the purpose of managing the case and furthering the overriding objective of ensuring the efficient disposal of the suit.

(2) When the Court passes an order in exercise of its powers under this Order, it may –

(a) make it subject to conditions, including a condition to pay a sum of money into Court; and

(b) specify the consequence of failure to comply with the order or a condition.

(3) While fixing the date for a Case Management Hearing, the Court may direct that the parties also be present for such case management hearing, if it is of the view that there is a possibility of settlement between the parties.

Adjournment
of Case
Management
Hearing.

7.(1) The Court shall not adjourn the Case Management Hearing for the sole reason that the advocate appearing on behalf of a party is not present:

Provided that an adjournment of the hearing is sought in advance by moving an application, the Court may adjourn the hearing to another date upon the payment of such costs as the Court deems fit, by the party moving such application.

(2) Notwithstanding anything contained in this Rule, if the Court is satisfied that there is a justified reason for the absence of the advocate, it may adjourn the hearing to another date upon such terms and conditions it deems fit.

Consequences of non-compliance with orders.

8. Where any party fails to comply with the order of the Court passed in a Case Management Hearing, the Court shall have the power to-

(a) condone such non-compliance by payment of costs to the Court;

(b) foreclose the non-compliant party's right to file affidavits, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be, or

(c) dismiss the plaint or allow the suit where such non-compliance is wilful, repeated and the imposition of costs is not adequate to ensure compliance."

Amendment
of Order
XVIII.

8. In Order XVIII of the Code, in Rule 2, for sub-rules (3A), (3B), (3C), (3D), (3E) and (3F), the following shall be substituted, namely:—

"(3A) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(3B) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies of

such judgments being relied upon by the party.

(3C) A copy of such written arguments shall be furnished simultaneously to the opposite party.

(3D) The Court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.

(3E) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3F) It will be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.”.

9. In Order XVIII of the Code, in Rule 4, after sub-rule (1), the following sub-rules shall be inserted, namely:—

Amendment
of Order
XVIII.

(1A) The affidavits of evidence of all witnesses whose evidence is proposed to be led by a party shall be filed simultaneously by that party at the time directed in the first case management hearing.

(1B) A party shall not lead additional evidence by the affidavit of any witness (including of a witness who has already filed an affidavit) unless sufficient cause is made out in an application for that purpose and an order, giving reasons, permitting such additional affidavit is passed by the Court.

(1C) A party shall however have the right to withdraw any of the affidavits so filed at any time prior to commencement of cross-examination of that witness, without any adverse inference being drawn based on such withdrawal:

Provided that any other party will be entitled to tender as evidence and rely upon any admission made in such withdrawn affidavit.”.

10. In Order XIX of the Code, after Rule 3, the following Rules shall be inserted, namely:—

Amendment
to Order XIX.

“4. (1) The Court may, by directions, regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the Court.

Court may
control
evidence.

(2) The Court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.”.

Redacting or
rejecting
evidence.

5. A Court may, in its discretion, for reasons to be recorded in writing—

(i) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence.

(ii) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.

Format and
guidelines
of affidavit
of evidence.

6. An affidavit must comply with the form and requirements set forth below:

(a) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;

(b) where the Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party's case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;

(c) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;

(d) an affidavit shall state-

(i) which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief; and

(ii) the source for any matters of information or belief.

(e) an affidavit should-

(i) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(ii) be divided into numbered paragraphs;

(iii) have all numbers, including dates, expressed in figures; and

(iv) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon."

11. In Order XX of the Code, for Rule 1, the following Rule shall be substituted, namely:—

Amendment
of Order XX.

“(1) The Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.”.

APPENDIX**STATEMENT OF TRUTH**

(Under First Schedule, Order VI- Rule 15A and Order X- Rule 1)

STATEMENT OF TRUTH BY [party position and name of party in full] I, the deponent above-named, do hereby solemnly affirm and declare as under:

1. I am [name of party and relevant details] in the above suit and competent to swear this affidavit.
2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.
3. I say that the statements made in [mention specific paragraph numbers] paragraphs are true to my knowledge and statements made in [mention specific paragraph numbers] paragraphs are based on information received which I believe to be correct and statements made in [mention specific paragraph numbers] are based on legal advice.
4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.
5. I say that that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.
6. I say that the above-mentioned pleading comprises of a total of [number of pages] pages, each of which has been signed by me.
7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.
8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law.

Place:

Date:

| | |
|---|--|
| VERIFICATION | |
| The statements made above are true to my knowledge. | |
| Verified at [place] on this [date] | |
| DEPONENT | |

Sd/-
Pranab Mukherjee,
President.

Sd/-
Dr. G. Narayana Raju
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-
C. J. Gothi,
Secretary to Government.